

DRAFT

This day, the _____ day of _____, two thousand eight, at the request of the company incorporated under the law of the Isle of Man called **LLANOS OIL EXPLORATION LTD.**, having its principal place of business in Bogotá D.C. (Republic of Colombia), hereby choosing domicile in (1076 DA) Amsterdam at Peter van Anrooystraat 7, at the office of Lexence N.V., of which office F.H.J. van Schoonhoven, Esq., is appointed attorney and will act in this capacity, with the right of substitution;

I,

SUMMONED:

1) The **REPUBLIC OF COLOMBIA**, domiciled in Bogotá D.C. at Transversal 45 No. 26-86 CAN in the Republic of Colombia, without known domicile in the Netherlands;

2) The company incorporated under the law of Colombia called **ECOPETROL S.A.**, having its principal place of business in Bogotá D.C. at Carrera 7 no. 37-65 in the Republic of Colombia, without known domicile in the Netherlands;

I served my writ on both defendants by leaving a copy hereof at the Public Prosecutor's Office at the Court in (2595 AJ) The Hague, Prins Clauslaan 60;

While a copy of this notification was immediately sent by me by registered mail to Defendants as well as the Colombian Embassy in The Hague, at Groot Hertoginnelaan 14, (2517 EG) The Hague.

TO:

On Wednesday, two thousand eight, at 10:00 a.m., appear, not personally but represented by an attorney, in court at a public civil Court session in (2595 AJ) The Hague, for that purpose in session in one of the court rooms of the Court House at Prins Clauslaan 60;

GIVING NOTICE:

that, if Defendants fail to appear in court represented by an attorney on the above mentioned docket date or on a date decided by the Court, whereas the prescribed terms and formalities have been observed, the Court shall grant leave to proceed against them and shall allow the claim, unless in the opinion of the Court the claim appears to be unjustified or unfounded; and

that, if one of the Defendants fails to have himself represented by an attorney on the above mentioned docket date or on a date decided by the Court, whereas the prescribed terms and formalities have been observed, the Court shall grant leave to proceed against the defaulting party and the Plaintiff and the party appearing shall continue the proceedings, whereby between all parties one judgment is pronounced which is considered a judgment in a defended action.

IN ORDER TO:

Hear it claimed and moved on behalf of the Plaintiff (hereinafter referred to as: "**Llanos Oil**"):

I. Introduction

1. These proceedings are about the wrongful termination by the government of Colombia of a concession agreement with the Llanos Oil company. Llanos Oil is run by Dutch brothers Hendrik and Albert van Bilderbeek and has a large number of Dutch investors and shareholders. Llanos Oil was robbed of its rights under the concession agreement in a dishonest way after it had become clear that Llanos Oil was sitting on a "golden egg" consisting of large oil and gas reserves. The government of Colombia simply took away Llanos Oil's rights under the concession agreement to pass them on through a web of corruption to the US company Drummond Ltd. Llanos Oil was silenced in its opposition through the arrest of its

director and two other employees without any evidence on suspicion of money laundering. Llanos Oil exhausted all legal remedies through criminal procedures to prove its company's and its employees' innocence, however any defense is being dismissed without any grounds. Therefore, in Colombia, Llanos Oil simply does not have the opportunity to challenge the wrongful termination of the concession agreement. It is being deprived of every right to a fair trial. Given the important connection of the government of the Netherlands with the Llanos Oil company and the fact that Llanos Oil had the Defendants' assets in the Netherlands seized, the Dutch Court is the designated authority to deliver a judgment on this dispute.

II. Las Nieves Agreement and Guatapurí Agreement

Las Nieves Agreement

2. In 1997, Llanos Oil entered into an agreement with Respondent referred to under 2 (hereinafter to be referred to as: "**Ecopetrol**") regarding an area called "Las Nieves", located in the Cesar department in Colombia ("**Las Nieves Agreement**"). The Las Nieves Agreement is attached as **Exhibit 1**.

Exhibit 1 and all other exhibits to be referred to hereinafter will be submitted to the court at the time of filing the summons.

3. The Las Nieves Agreement granted Llanos Oil the exclusive right to perform oil exploration and production activities in the area for a period of 28 years. For the term of the agreement, 14 objectives and requirements were set in the Las Nieves Agreement, with which Llanos Oil had to comply. Llanos Oil complied with all requirements and conditions of the Las Nieves Agreement. Among other things, Llanos Oil issued a \$ 750,000 letter of credit in favor of Ecopetrol as a security for the exploration investments of the first three years (**Exhibit 2**).
4. Seismic research performed by Llanos Oil in 1998 shows that ten large oil structures are present in the top layer of the soil (La luna layer) of the Las Nieves area. **Exhibit 3** is a map of the Las Nieves area showing the ten oil structures. After intensive exploration research, it appears that from one of the ten oil structures called

“Fidelina” a minimum of 860 million barrels of light, low sulphur Brent 39-42 API grade oil can be extracted. This was a large-scale oil discovery, similar to the discovery of the La Paz and La Mara oil fields in Venezuela. Shell produced one billion barrels of oil from these oil wells. Llanos Oil immediately started the preparations to extract the oil and to produce it.

5. Research performed by Dutch company Panterra Geoconsultants B.V. shows the entire oil field of the Las Nieves area (potentially) has at least 3.7 billion barrels of oil “in place” and possibly a large volume of gas (**Exhibit 4**).
6. Between 1997 and 2000, Llanos Oil invested many millions to map the oil structures in the Las Nieves area and to make preparations to actually extract and produce the oil (**Exhibit 5**):
 - In 1999, Llanos Oil performed seismic research over more than 235 km in the Las Nieves area;
 - Llanos Oil ordered the company NPA to produce a heat differentiation oil report of the entire Las Nieves area by means of an English satellite. This report, in combination with all other seismic data, allowed to identify all top layer oil structures within the Las Nieves area;
 - Llanos Oil ordered a geoconsultancy report of the entire Las Nieves area from Swiss company Petroconsultants;
 - Llanos Oil ordered geological reports of the A-1X & F1-X oil wells from US company Diacomp;
 - Llanos Oil built two complete oil platforms with infrastructure (including a network of roads) in cooperation with renowned US oil service company Halliburton and suppliers Schlumberger from France, Baker Hughes and Harken Energy from the United States;
 - Llanos Oil had two drilling rigs custom built by Beiken Industries China and had one drilling rig delivered by US company Parker Drilling;
 - Llanos Oil prepared a geological report on fossil fuels in the entire Las Nieves area in cooperation with Western Atlas, LandSat, Dr. Prince and Hendrik van Bilderbeek, P. Eng.

- Llanos Oil had to make efforts to obtain an environmental permit from the Colombian Department of Environment. This process certainly takes more than one year.
 - Llanos Oil had to make efforts to obtain a drilling permit from the Colombian Department of Mining and Energy. The permit was not granted until all conditions of the Las Nieves Agreement were met and an environmental permit was issued.
7. In 2000, after severe flooding in the Las Nieves area, Llanos Oil was forced to suspend seismic activities, preventing them from complying with the objective of the Las Nieves Agreement. However, under Art. 34 of the Las Nieves Agreement, it was possible to obtain deferment of an obligation in cases of *force majeure*. Llanos Oil invoked this article. Ecopetrol agreed to the extension, however imposing the additional, extracontractual requirement on Llanos Oil to extend the existing \$ 750,000.00 letter of credit by one year (**Exhibit 6**).
 8. In order to avoid a conflict, Llanos Oil complied with the requirement to extend the letter of credit (**Exhibit 7**). After Llanos Oil provided the additional security, Ecopetrol nevertheless terminated the Las Nieves Agreement. The amount of \$ 750,000.00 was cashed in by Ecopetrol. Llanos Oil could not and cannot but consider this cashing in as theft.
 9. Llanos Oil opposed the termination of the Las Nieves Agreement with Ecopetrol de facto and through diplomatic channels.

Guatapurí Agreement

10. The factual opposition against the termination of the Las Nieves Agreement consisted in Llanos Oil continuing the exploitation of the Las Nieves area and even in making payments to Ecopetrol (such as the payment of \$ 50,000.00 for engineering data).
11. The diplomatic opposition against the termination of the Las Nieves Agreement consisted in Llanos Oil trying to put pressure on Ecopetrol with the help of Colombian, Dutch and US politicians in order to reverse the termination of the agreement. At the instigation of the then president of Colombia Pastrana, Ecopetrol proceeded

with the reinstatement of the Las Nieves Agreement in late 2002 (**Exhibit 8**). The new agreement called “Guatapurí” – of which the content is almost identical to the Las Nieves Agreement – is drawn up.

12. Under the Guatapurí Agreement, Llanos Oil was given the exclusive right to explore, extract and exploit fossil fuels in a 97,050 hectare area between the municipalities of Becerril, La Jagua de Ibirico, Chiriguaná and El Paso in the Cesar department in Colombia. The term of this new agreement was also 28 years, i.e. 6 years for the exploration and 22 years for the extraction of oil. The oil area covered under the Guatapurí Agreement is virtually identical to the area of the Las Nieves Agreement (Annex A Guatapurí Agreement).¹

¹ To determine the oil area, Ecopetrol and Llanos Oil used as a reference point geodetic point “PASO-698” taken from the Agustin Geographical Institute having as GAUSS plane co-ordinates with Bogotá as origin: N-1,559,034.61 meters, E-1,035,995.42 meters, corresponding with geographical co-ordinates Latitude 9 degrees 39 minutes 13 seconds 0.528 North of Ecuador, Longitude 73 degrees 45 minutes 10 seconds 0.675 West of Greenwich, formed by the following vertexes: Point A: From this vertex (PASO-698), continuation in direction S 50 degrees 04 minutes 44 seconds 0.358 E with a distance of 11,741.07 until point “A” is reached, starting point of limitation with co-ordinates N-1,551,500.00 meters, E-1,045,000.00 meters. Point B: From this point, continuation in an EASTERLY direction at a distance of 999.82 meters until point “B” is reached, with coordinates N-1,551,500.00 meters, E-1,046,00.00 meters. The “A-B” line borders on the MARACAS sector where the TEXICAN company is operating, over its entire range. Point C: From this point, continuation in direction N 46 degrees 02 minutes 29 seconds 0.856 E with a distance of 19,448.65 meters to point “C” with N-1,565,000.00 meters, E-1,060,000.00 meters as co-ordinates. The “B-C” line borders on the MARACAS sector where the TEXICAN company is operating, over its entire range. Point D: From this point, continuation in direction N 59 degrees 02 minutes 10 seconds 0.476 with a distance of 17,492.86 meters to point “D” with N-1,574,000.00 meters, E-1,075,000.00 meters as co-ordinates. The “C-D” line borders on the IRACA sector where the QRC COLOMBIA company is operating, over its entire range. Point E: From this point, continuation in direction S 39 degrees 48 minutes 20 seconds 0.056 E with a distance of 7,810.25 meters to point “E” with N-1,568,000.00 meters, E-1,080,000.00 meters as co-ordinates. The “D-E” line borders on the IRACA sector where the QRC COLOMBIA company is operating, over its entire range. Point F: From this point, continuation in direction S 07 degrees 45 minutes 54 seconds 0.598 W with a distance of 22,203.60 meters to point “F” with N-1,546,000.00 meters, E-1,077,000.00 meters as co-ordinates. The “E-F” line borders on the IRACA sector where the QRC COLOMBIA company is operating, over its entire range. Point G: From this point, continuation in direction S 53 degrees 50 minutes 30 seconds 0.532 W with a distance of 32,202.48 meters to point “G” with N-1,527,000.00 meters, E-1,051.000 meters as co-ordinates. Point H: From this point, continuation in direction N 56 degrees 18 minutes 35 seconds 0.757 W with a distance of 7,211.10 meters to point “H” with N-1,531,000.00 meters, E-1,045,000.00 meters as co-ordinates. From this point,

13. Parties signed the Guatapurí Agreement on November 10, 2002. Ecopetrol was represented by its CEO Farbaiarz. On December 24, 2002, the government of Colombia, through its Department of Mining and Energy, ratified the Guatapurí Agreement (**Exhibit 9**).
14. As a condition to reinstate the agreement, Ecopetrol set stringent requirements on Llanos: within sixty days after signing, it had to pay off all of its company debt (\$ 400,000.00), produce 70 km of new 2D seismic worth \$ 1,500,000.00 and pay a deposit of \$ 2,500,000.00 (refer to Art. 40 of the Guatapurí Agreement).
15. Despite the fact that Ecopetrol had wrongfully appropriated \$ 750,000.00 from the previous letter of credit without returning it, Llanos Oil deposited the amount of \$ 2,500,000.00 in a Trust with Helm Bank, which was confirmed by Helm Bank to Ecopetrol on January 13, 2003.
16. By means of a letter dated February 6, 2003, Ecopetrol confirmed that Llanos Oil had complied with the conditions of Art. 40 (**Exhibit 10**).

III. Termination of the Guatapurí Agreement

17. After the Guatapurí Agreement had been in force for three months, on May 19, 2003 (**Exhibit 11**) Ecopetrol totally unexpectedly and unilaterally made an additional demand: Llanos Oil had to transfer the amount of \$ 2,500,000.00 to a Colombian bank. If Llanos Oil did not comply with this requirement within sixty days, the Guatapurí Agreement would be terminated by Ecopetrol. Llanos Oil had a déjà vu and was afraid that, by devious means, Ecopetrol would again try to swindle Llanos Oil out of an amount of \$ 2,500,000.00, as had happened previously under the Las Nieves Agreement.
18. By means of a letter dated July 3, 2003 (**Exhibit 12**), Llanos Oil opposed this additional requirement.

continuation in direction N 00 degrees 00 minutes 01 second 0.811 W with a distance of 20,500.00 meters to point "A", starting and end point of the limitation.

19. On July 12, 2003 (**Exhibit 13**), Ecopetrol gave Llanos Oil one week (until July 19, 2003) to comply with the additional requirement wrongly set. This letter wasn't received by Llanos Oil until July 17, 2003.
20. Llanos Oil finally gave in again under Ecopetrol's pressure. In a telephone conversation on July 18, 2003, Llanos Oil informed Ecopetrol that Llanos Oil would transfer the amount in accordance with Ecopetrol's instructions. This telephone conversation was confirmed by Ecopetrol in writing by letter, handed over in person to Llanos Oil's director on July 18, 2003 at 5:00 p.m. (**Exhibit 14**). In this letter, as a "generous" gesture, Ecopetrol gave Llanos Oil a few extra days (until Tuesday July 22, 2003) to comply with this additional requirement. In reality, this was only one extra day, as there are no payment transactions over the weekend.
21. It was clear to Llanos Oil that Ecopetrol's aim was to terminate the Guatapurí Agreement for improper reasons. Llanos Oil did not want to give Ecopetrol any (fallacious) grounds to terminate the agreement and succeeded in doing everything to transfer the money to the Colombian bank within the set time period. On July 22, 2003 (**Exhibit 15**), Llanos Oil informed Ecopetrol of said transfer.
22. In spite of the above and the fact that Llanos Oil had complied with all conditions under the Guatapurí Agreement, Ecopetrol terminated the Guatapurí Agreement with Llanos Oil on July 23, 2003 by means of letter no. AEX-00482 (**Exhibit 16**). The letter was signed by Ecopetrol's (unauthorized, see paragraph 68 et seq.) Vice President of Exploration and Production, Luis Eduardo Peña ("**Peña**"). The termination reason given by Ecopetrol was that Llanos Oil would not have complied with its contractual obligation to deposit an amount of \$ 2,500,000.
23. Upon termination of the agreement, Llanos Oil immediately lost the actual control over the project. Third parties, employees of another company (US company Drummond Ltd.), surprised Llanos Oil and Llanos Oil could do little else than leave. Continuing the activities was simply no longer possible for Llanos. De facto, an irreversible situation had been created.

24. As a result of the termination of the agreement, in any event Llanos Oil suffers a loss of \$ 7,610,750,000.00, (in words: seven billion six hundred ten million seven hundred fifty thousand US dollars). Such is the immediate loss resulting from the investments made by Llanos Oil under the Las Nieves and Guatapurí Agreements and missed income from the proven 860 million barrels of oil present in the Fidelina structure. This loss must be further increased with the loss which at this time cannot be finally determined based on the oil and gas potential to be extracted from the entire Guatapurí area, with at least 3.7 million barrels of oil "in place." Said loss is to be assessed by the Court.
25. Defendants are liable for said loss and must compensate the damage.
26. Given the extent of the loss and as a security, Llanos Oil has and/or will have prejudgment garnishment levied on all assets of Defendants worldwide. In the Netherlands, the assets as referred to in Paragraph 59 have been or are being seized.

IV. Parties

Llanos Oil

27. Llanos Oil is a company incorporated under the law of the Isle of Man, with a branch in Bogotá, Colombia. **Exhibit 17** is an extract from the register of the Financial Supervisory Commission Isle of Man. Under the articles of incorporation, Llanos Oil's object is to explore and extract oil in Colombia, more specifically in the Cesar department. The driving forces behind Llanos Oil are Dutch brothers Hendrik and Albert van Bilderbeek, coming from a Dutch family of Shell engineers.

Ecopetrol

28. Ecopetrol was established in 1951 as an industrial and commercial state company (*Empresa Industrial y Comercial Del Estado*), associated with the Department of Mining and Energy of the Republic of Colombia and is subject to Colombian private law and its internal rules and regulations (Decree 30 from 1951). By Decree 0062 of January 20, 1970, Ecopetrol is appointed by the government of Colombia to manage Colombia's oil fields, pipelines, refineries, oil wells, oil terminals and in general all state property related to oil exploitation.

29. Pursuant to Decree 2310 of 1974, Ecopetrol has the authority to explore and exploit the state's fossil fuels or to do such by concluding agreements with third parties.
30. As of June 26, 2003, Ecopetrol's legal personality changed from a state company to a company limited by shares owned by the State.

The Government of Colombia

31. The Government of Colombia is the owner of all non-renewable natural resources, including fossil fuels, present in the soil of the State of Colombia. Under international law, states can freely make use of the natural resources present in the country and enjoy sovereignty in this respect (General Assembly of the UN, Resolution 41/128 of December 4, 1988).
32. The government of Colombia put the Department of Mining and Energy in charge of the national policy regarding the exploration, extraction and exploitation of minerals and fossil fuels (Decree 0070 of 2001). In particular, the Department of Mining and Energy is responsible for the industrial and commercial activities related to the use of said natural resources.

Equation

33. In Art. 1.1. of the Guatapurí Agreement the object of the agreement is laid down: *"The goal of this contract is the exploration of the Contracted Area and the exploitation of the Hydrocarbons of national property that could be found in such area, described in Annex A that is part of the present contract."*
34. In the Guatapurí Agreement, Llanos Oil is given the right to exploit Colombia's national resources. Therefore, de facto, Llanos Oil entered into a contract with the government of Colombia as the state is the owner of the natural resources and enjoys sovereignty in this respect. The fact that the contract is made out in the name of state company Ecopetrol does not detract from this.
35. Pursuant to the United Nations Convention on Jurisdictional Immunities of States and Their Property (Art. 2.1 sub b) *"agencies or instrumentalities of the State or other entities, to the extent that*

they are entitled to perform and are actually performing acts in the exercise of sovereign authority of the State" belong to the state. Therefore, Ecopetrol belongs to the state of Colombia because it acts with respect to national resources (fossil fuels).

36. The fact that Ecopetrol de facto entered into a contract with the government of Colombia also appears from the fact that under Art. 43 of the Guatapurí Agreement, the government must approve the agreement.
37. In addition, the Department of Mining reported directly to Llanos Oil regarding the engineering results of the Guatapurí Agreement. On September 17, 2003, Llanos Oil received the last letter from the Department of Mining and Energy confirming that Llanos Oil had complied with the technical requirements for 2002 (**Exhibit 18**).
38. The fact that Ecopetrol and the Republic of Colombia are interwoven also appears from the fact that the Department of Mining and Energy is part of the Board of Directors of Ecopetrol. The government of Colombia is therefore very much involved in Ecopetrol's policy.
39. Finally, Llanos Oil needed a drilling permit governed by public law from the Colombian Department of Mining and Energy to be allowed to drill in the area. However, in order to be eligible for said permit, Llanos Oil had to comply with all conditions of the Guatapurí Agreement with Ecopetrol. This again shows how interwoven the Republic of Colombia and Ecopetrol are.

Amendment to the structure

40. On June 26, 2003 (therefore immediately before the termination of the Guatapurí Agreement), the structure for the government of Colombia/Ecopetrol changed such that as of that date Ecopetrol became a corporation with the government of Colombia as its sole shareholder.
41. Does this amendment to the structure change the equation? Not in Llanos Oil's opinion. The corporate structure of a state company or body is not decisive for the presence or absence of an equation. It is determined by actual actions, the government influence and in this

case, the fact that Ecopetrol manages national property. Therefore, Ecopetrol's subsequent actions (after June 26, 2003) regarding the termination of the Guatapurí Agreement must be entirely imputed to the government of Colombia, including based on the following.

42. Firstly, a unilateral amendment of the legal structure of the government of Colombia/Ecopetrol after concluding the Guatapurí Agreement, immediately before the termination of the Guatapurí Agreement cannot have the effect that the original contracting party (the Republic of Colombia) is replaced with another party (Ecopetrol) without Llanos Oil's consent.
43. Secondly, Ecopetrol was and is, also in the new structure, under supervision of the Department of Mining and Energy (refer to Ecopetrol's web site, **Exhibit 19**).
44. Finally, there are facts and circumstances indicating that both before and after the structure change the government of Colombia de facto determines Ecopetrol's policy and that Ecopetrol's actions are directed by the government of Colombia. **A statement by a former Vice President of DAS (the Colombian secret service), Mr. Rafael Enrique García Torres ("García"), made before a Colombian Court, shows that the Office of the President instructed DAS to associate Llanos Oil with money laundering practices (Exhibit 20).** In the eyes of the ignorant public, a ground for justification could be created this way to terminate the agreement with Llanos Oil and subsequently allow a third party, US company Drummond Ltd., to take over Llanos Oil's lucrative business activities.

Drummond Ltd.

45. Shortly after Ecopetrol terminated the Guatapurí Agreement with Llanos Oil, Ecopetrol concluded an agreement with Drummond Ltd., as decided by the Office of the President in late 2002. The agreement is almost identical to the Guatapurí Agreement with the exception of the stringent obligations applicable to Llanos Oil in Article 5 and 40. The billion dollar company Drummond only had to produce two stratigraphic wells (worth \$ 5,000 each) and 135 km of reassessed seismic (**Exhibit 21**). The Guatapurí area was in the

center of the area to which the agreement between Ecopetrol and Drummond Ltd. applied (**Exhibit 22**).

46. The conditions under which Ecopetrol concluded an agreement with Drummond Ltd. 6 months after terminating the Guatapurí Agreement are very dubious and are clearly pointing toward nepotism. Firstly, Drummond Ltd. is not an oil company but a coal company (**Exhibit 23**). Ecopetrol itself explicitly states that it will only conclude oil exploration agreements with companies who have experience in oil and gas extraction (**Exhibit 24**).
47. In addition, the period between Drummond Ltd.'s application for an oil exploration agreement dated December 5, 2003 and the signing of the agreement by Ecopetrol and Drummond Ltd. on December 23, 2004 is extremely short. Normally, such a process lasts one to two years.
48. It is also striking that before the agreement enters into effect with Drummond, in the fourth quarter of 2003 Ecopetrol provided Drummond with seismic and satellite information which is the result of Llanos Oil's research (**Exhibit 25**). This is intellectual property owned by Llanos Oil. This seismic information is extremely important for the successful extraction of oil. Llanos Oil obviously never allowed Ecopetrol to share this information with third parties.
49. In addition, Drummond Ltd. used Llanos Oil's environmental permit for a year and a half to perform exploration work in the Guatapurí area. Llanos Oil's environmental permit wasn't revoked until the middle of 2005 (**Exhibit 26**).
50. The above clearly shows that the termination of the Guatapurí Agreement has simply been ordered by the Office of the President in order to allow Drummond Ltd. to take over the rights belonging to Llanos Oil under the agreement. This shows that Colombia determines Ecopetrol's policy not only legally but also de facto.
51. Finally, it must be pointed out that in August 2003, the Colombian Public Prosecutor, at the request of Llanos Oil director Hendrik van Bilderbeek opened a criminal inquiry into Ecopetrol, Drummond, Fabio Echeverri Correa (Chairman of the board of directors of

Ecopetrol, a confidant of president Uribe, and Drummond's general representative) and the role of said Parties in the termination of the Guatapurí Agreement. On September 30, 2004, three Llanos Oil employees, including director Hendrik van Bilderbeek, were arrested based on a completely fictitious suspicion of laundering drug money for paramilitary groups. A suspicion which is not based on anything and is only intended to silence Llanos Oil in its fight against the wrongful termination of the agreement. This also exactly as determined by the Office of the President at the end of 2002.

52. Salient detail: during the arrest of Hendrik van Bilderbeek on September 30, 2004, several documents were seized including the map with details of the oil structures in the Guatapurí area (Exhibit 3). In addition to 10 oil structures in the Guatapurí area, the map also includes an oil structure just outside of the Guatapurí area. On November 12, 2004, Ecopetrol and Drummond Ltd. modify the agreement and reduce the area to which the agreement is related exactly to the Guatapurí area, increased with the area containing the oil structure mapped by Llanos Oil but outside of the Guatapurí area. This again emphasizes the close relationship between the government of Colombia and Drummond Ltd. and the corrupt behavior of the government of Colombia.

V. Absence of immunity

53. The government of Colombia does not enjoy immunity regarding the actions to be assessed in these proceedings. Through Ecopetrol, the government of Colombia concluded a private contract with Llanos Oil, as a result of which it cannot claim the privileges under international law.
54. International law pertaining to state immunity is governed by international treaty and customary law. One of the leading principles pertaining to immunity is the *par in parem* principle; in principle, a state cannot be subject to the jurisdiction of another state against its will.
55. However, the *par in parem* principle exceptionally does not apply if a state performs juristic acts under private law. In a legal action between the United States and a Dutch employee, the Netherlands

Supreme Court stated that "*in accordance with current practice pertaining to international law (...), there is a trend to reduce a sovereign state's privilege to claim immunity in the Court of another state, and to only grant it if the act of the foreign state which is the reason for proceedings commenced against it, clearly has the character of a government action, in the opinion of the designated court.*" (Supreme Court, December 22, 1989, NJ 1991, 70).

56. For the sake of completeness, Llanos Oil hereby files a memorandum of nationally and internationally renowned Dutch expert of international law Prof. P.J.I.M. de Waart from which it appears that the Guatapurí Agreement must be considered a commercial transaction governed by private law (**Exhibit 27**).
57. Finally, pursuant to Art. 93 of Colombian Act 489 of 1998, juristic acts performed by state companies in the development of their own industrial, commercial or economic activities are subject to Colombian private law. In particular Decree 0062 of 1970 provides that Ecopetrol's activities are governed by Colombian private law.

VI. Competent Court and Applicable Law

Competent Court

58. Pursuant to Art. 767 of the Dutch Civil Code, the Court of The Hague has jurisdiction over the current claim in the principal action. On **[date@]** Llanos Oil had an attachment levied on the real property of a debtor not domiciled in the Netherlands, located at Stoeplaan 25 (2243 CX) in Wassenaar and owned by the government of Colombia and on all claims by [list of banks@] against Defendants. As for Llanos Oil it is impossible to become entitled to execution in the Netherlands by any other means, the Court of The Hague has jurisdiction over the current dispute.
59. In addition, it has to be seriously taken into account that Llanos Oil will be deprived of the right to a fair trial in Colombia. This has to do primarily with the nature and the extent of the claim as well as the Defendants.
60. The government of Colombia not only wrongfully terminated the Guarapurí Agreement, but also used every means to make life

impossible for Llanos Oil and its employees instead of protecting them, as may be expected from a government body.

61. After Llanos Oil director Hendrik van Bilderbeek had fiercely opposed the termination of the Guatapurí Agreement, Llanos Oil and three of its employees were accused of laundering drug money for paramilitary groups, without any legal basis. Llanos Oil director Hendrik van Bilderbeek has now been in prison for four years in Bogotá, awaiting a judgment. The criminal proceedings against Hendrik van Bilderbeek are at odds with both international and Colombian law, as stated by Hendrik van Bilderbeek's Colombian lawyer, Gloria Eugenia Alzate Roldan (**Exhibit 28**). The criminal court judge took cognizance of Garcia's previously mentioned statement, indicating that Hendrik van Bilderbeek and Llanos Oil were wrongly and purposefully accused of laundering drug money, but does not attach any value to it.
62. The government of the Netherlands expressed its concerns regarding the criminal proceedings against Mr. van Bilderbeek and in particular also regarding the connection between the criminal proceedings on the one hand and the unjust termination of the Guatapurí Agreement on the other. In July 2006, Members of Parliament Van der Staaij (SGP), Koenders (PvdA), Ormel (CDA) and Bakker (D66) questioned the Minister of Foreign Affairs (**Exhibit 29**). The Dutch Prime Minister brought up the subject with President Uribe of Colombia. All without any success.
63. Recently, Prof. P.J.I.M. de Waart, through a written opinion dated August 20, 2008 (**Exhibit 30**), concluded that the Dutch government would have to do a lot more to force the Colombian government to observe basic internationally recognized legal principles with respect to Hendrik van Bilderbeek.
64. By means of letters dated September 4, 2008, Lexence, through attorney F.H.J. van Schoonhoven, Esq., acting on behalf of Mr. van Bilderbeek, wrote to all parliamentary groups in the Dutch Lower House, as well as to the Minister of Foreign Affairs and the Minister of Developmental Assistance, the Dutch Ambassador in Colombia, the Dutch Prime Minister and Her Majesty the Queen to ask for their attention for this escalating violation of the human rights of Mr. van Bilderbeek (**Exhibit 31**).

65. In the meantime, the first hopeful reactions have been received from CDA, Groen Links and SP (**Exhibits 32**). Her Majesty the Queen has also acknowledged receipt of the aforementioned letter (**Exhibit 33**).
66. The unlikelihood that Llanos Oil could expect a fair trial in Colombia and the fact that corruption is common practice in Colombia are also apparent from the corruption index of the Transparency International, which every year carries out a worldwide investigation into corruption in the public sector. In 2007 Colombia scored 3.8. In comparison: The Netherlands scored 9.0 (**Exhibit 34**)².
67. Apart from the fact that it is impossible for Llanos Oil to become entitled to execution in the Netherlands by any other means, for the sake of a fair trial, there is a legitimate interest to have the proceedings take place in the Netherlands. In addition, it is not obvious to have a Colombian court decide on the rights withheld from Llanos Oil by the Colombian government, including by the Colombian judiciary.

Applicable Law

68. Llanos Oil's claim for compensation for losses suffered is a claim which, given the circumstances, has such a close connection with Colombia that the claim below must be assessed under Colombian law, again adding that this is subject to the public order and good moral of, in this case, the Netherlands.

VII. Prohibited delegation of powers, abuse of power

69. In addition to the fact that Ecopetrol did not have any ground to terminate the Guatapurí Agreement with Llanos Oil, it did not comply with the formal laws under which it has the right to conclude contracts with third parties and to terminate these agreements. In the Guatapurí Agreement (Article 41), Ecopetrol president Isaac Yanovich Farbaiarz ("**Farbaiarz**") delegated his power to manage the agreement to the Vice President of Exploration and Production of Ecopetrol, Luis Eduardo Peña ("**Peña**"). However, under Colombian

² The countries under investigation are given a score between 0 and 10, whereby 10 means free of corruption and 0 means totally corrupt.

law, it is impossible to delegate these duties. **Exhibit 35** contains an organizational chart of Ecopetrol.

70. Ecopetrol's ability to conclude agreements with third parties for the exploration and exploitation of fossil fuels is legally governed by a contract manual (*Manual de Contratación*, **Exhibit 36**) adopted by Ecopetrol. The manual accurately establishes which rules must be observed by Ecopetrol when entering into contracts with third parties to avoid Ecopetrol from transgressing the powers conferred on it.
71. Article 2 of Ecopetrol's contract manual defines "authorized officer" as the person who is authorized to enter into contracts on behalf of Ecopetrol, as delegated by law, and is therefore entitled to perform all acts requested by the contracting party and required to sign, initiate, execute, terminate and settle the contract. The authorized officer is responsible for managing and administering the contract and cannot delegate or transfer these powers to other officers (...).
72. Pursuant to Art. 4 of Resolution 2543 of 1984, Ecopetrol's "authorized officer" is the President of Ecopetrol. Therefore, Farbaiarz was the only person who could conclude, manage and terminate the Guatapurí Agreement with Llanos Oil on behalf of Ecopetrol. These powers cannot be delegated or transferred under any circumstances.
73. On July 23, 2003, the day Peña terminated the Guatapurí Agreement with Llanos on behalf of Ecopetrol by letter with no. AEX-00482, the only person authorized to terminate the Guatapurí Agreement on behalf of Ecopetrol was Farbaiarz, in his capacity of President of Ecopetrol.
74. Pursuant to Art. 16 of the Colombian Civil Code, abuse of power exists when an agreement is concluded in violation of public order and good moral.
75. The laws from which Ecopetrol derived its powers to explore, extract and exploit fossil fuels owned by the State, are of public order under Colombian law.

76. Art. 41 of the Guatapurí Agreement where the President of Ecopetrol delegates his powers related to the management of the agreement is in violation of public order legislation. Therefore, under Colombian law, Ecopetrol is guilty of abuse of power.
77. Termination letter no. AEX-00482 with which the Guatapurí Agreement was terminated by unauthorized Peña is also in violation of Colombian public order legislation. Therefore, under Colombian law, Ecopetrol is also guilty of abuse of power for this reason.
78. Furthermore, the government of Colombia did not carry out the agreement and its supervision over Ecopetrol in accordance with the law.
79. Under Art. 830 of the Colombian Commercial Act, the person who abuses his powers is liable for the ensuing damages under private law. On this ground, Ecopetrol and the government of Colombia are therefore also liable for the damages suffered by Llanos Oil as a result of the abuse of power.
80. **Exhibit 37** submitted herewith is a memorandum by Colombian lawyer Manuel Castro. Manuel Castro is associated with the Santiago Salah, Abogados, Consultores & Asociados Law Office in Bogotá and is specialized in Colombian energy law. In the memorandum, Castro concludes that under Colombian law Ecopetrol could not delegate the powers to terminate the Guatapurí Agreement and that under the Colombian Civil Code such delegation leads to abuse of power and to liability to pay damages for the person committing said offense.

VIII. Breach of contract/ Sovereignty/Damages

81. As stated, a State enjoys sovereignty regarding the natural resources present on its territory. **Exhibit 38** submitted herewith is a memorandum concerning sovereignty authored by Prof. Em. Dr. P.J.I.M. de Waart.
82. Prof. De Waart concludes that sovereignty does not mean that states cannot conclude any agreements with private (foreign) companies for example with respect to the exploration and exploitation of natural resources. Sovereignty also does not mean that States can

arbitrarily terminate the agreements related to natural resources. If a state terminates an agreement related to natural resources, it is liable for the ensuing loss.

83. In de Seoul Declaration on Legal Aspects of a New International Economic Order of the International Law Association (ILA), the following is stipulated pertaining to sovereignty of natural resources (Section 5.5):

"A state may nationalize, expropriate, exercise eminent domain over or otherwise transfer property, or rights in property, within its territory and jurisdiction subject to the principle of international law requiring a public purpose and non-discrimination; to appropriate compensation as required by international law, and to any applicable treaty, and without prejudice to legal effects flowing from any contractual undertaking."

84. Although the termination of the Guatapurí Agreement is contrary to the agreement itself, the law and Ecopetrol's rules and regulations grant the right to the government of Colombia if terminating such agreement is non-discriminatory and takes place in the context of a public purpose.
85. The government of Colombia did not comply with said criteria. The non-discrimination requirement is not met because Llanos Oil is harmed without any reason, in favor of Drummond Ltd. There is also no public purpose as the reason for termination is a mere commercial reason in the interest of US company Drummond Ltd. The Colombian public interest is not served in any way.
86. If and in so far as the termination does comply with the aforementioned criteria, the government of Colombia must compensate for the entire loss suffered by Llanos Oil as a result of the termination of the Guatapurí Agreement. Not to mention the compensation the government of Colombia owes to Llanos Oil when the termination is in violation of the criteria.

IX. Wrongful act

87. Not only the termination of the Guatapurí Agreement but also the actual disruption caused by third parties sent by Defendants to the Llanos Oil premises who made the actual continued exploitation impossible, must be seen as a serious violation of Llanos Oil's rights.
88. Under Colombian law, such a wrongful act also results in liability and an obligation to compensate for losses.
89. The deliberate imprisonment of Llanos Oil employees without any legal ground (see García's statement) with the clear intention to silence Llanos Oil in its fight against the corruption of the Colombian government is a violation of the right to a fair trial under both Colombian and international law requiring liability and damages. For Llanos Oil, while Mr. van Bilderbeek is wrongly imprisoned, it is extremely difficult to prepare this type of drastic proceedings, leaving aside the fact that Llanos Oil fears for the health and even the life of Mr. van Bilderbeek as a result of commencing the current proceedings. Meanwhile, Hendrik van Bilderbeek's health has deteriorated to such a level that he is indifferent to the possible personal consequences of said proceedings.

X. Conclusion

90. Llanos Oil became the victim of an agreement it concluded with a State. The government of Colombia abused its power and sovereignty to take away the rights Llanos Oil had acquired regarding fossil fuels present in the soil of the Guatapurí area and to assign them to third parties. Under international law, a state enjoys sovereignty regarding the natural resources present, such as oil and gas. However, this does not mean that it can terminate agreements regarding said natural resources at its discretion. The government of Colombia is liable to pay compensation for the wrongful termination of the Guatapurí Agreement. Llanos Oil is unable to get a fair trial in Colombia as the government of Colombia is a party to these proceedings and in Colombia there is no independent judiciary, in contrast with the Netherlands. Given the important connection of Llanos Oil with the Netherlands and the fact that Llanos Oil had the

Defendants' assets in the Netherlands seized, Llanos Oil is asking the Dutch court to assess the current matter.

XI. Damages

91. Llanos Oil suffered losses and continues to suffer losses directly resulting from the abuse of power, breach of contract and wrongful acts committed by Ecopetrol and the government of Colombia. The losses consist of the loss of investments made by Llanos Oil for the Las Nieves and Guatapurí Agreements as well as the missed income from the extraction of oil and gas based on the Guatapurí Agreement.

Oil and Gas

92. In the Guatapurí area, in any event, 860 million barrels are present. However, the field potential is many times larger and the volume is estimated at many billions of barrels of oil and gas. Llanos Oil recently ordered Dutch company Panterra Geoconsultants B.V. to provide a substantiated quantification of the oil and gas potential in the Guatapurí area. This report will be submitted to the Court by Llanos Oil at a later date.
93. To substantiate the presence of a huge volume of oil and gas in the Guatapurí area, Llanos Oil is referring to an interview with the President of Drummond on October 5, 2008 (**Exhibit 39**). In the interview, the president indicated that Drummond recently did an important methane gas discovery of 2.3 trillion cubic feet. Drummond did this discovery in the top layer of one of the oil structures mapped by Llanos Oil (**Exhibit 40**).
94. As the complete loss suffered by Llanos Oil cannot be exactly calculated at this time, Llanos Oil requests your Honorable Court to determine Llanos Oil's loss through a follow-up procedure as a result of the termination of the Guatapurí Agreement.
95. The loss suffered by Llanos Oil in any case as a result of the Respondent's actions and which can be calculated at this time consists of:

- a. Loss as a result of the letter of credit unlawfully cashed in by Ecopetrol worth \$ 750,000.00;
 - b. Loss as a result of the investments it made for the Las Nieves and Guatapurí Agreements, consisting of development wells, rental costs, drilling, staff, facilities around the wells, fire installations, communication equipment, office expenses, environmental protection programs, research into oil fields, simulation reports, storage, etc. In any event, this loss amounts to \$ 1,000,000.00;
 - c. Loss as a result of (i) the loss of the value of the seismic information obtained in the Las Nieves/Guatapurí area in 2000, (ii) the payments made to companies Sismopetrol and Coesam and other companies and natural persons, (iii) the agreements concluded with the companies Parker Drilling Company of Colombia Limited and Halliburton Latin America S.A. In any event, this loss amounts to \$ 2,500,000.00;
 - d. Loss as a result of losing the possibility to attain the Guatapurí Agreement objective and to exploit 860 million barrels of fossil fuels in the area's soil. This loss amounts to \$ 7,606,500.00.
96. Therefore, the loss suffered by Llanos Oil to be established at this point in any event amounts to \$ 7,610,750,000. In addition, the loss suffered will be multiplied now that there are serious indications that the area has many more oil and gas sources.

XII. Evidence

97. To the extent it is obliged to do so, Llanos Oil explicitly offers to prove all of its statements using any legal remedies, more specifically by hearing the following witnesses:
- a. Mr. H. van Bilderbeek, P. Eng. He can testify regarding the conclusion and the termination of the agreements between Llanos Oil and Ecopetrol;

- b. Mr. A.J. van Bilderbeek. He can testify regarding the activities of Llanos Oil;
- c. Mr. A.A. Dijksman, Ph.D., Geophysical Evaluation manager at Panterra Geoconsultants B.V. He can testify regarding the engineering and financial aspects of the activities performed by Llanos Oil both under the Las Nieves Agreement and the Guatapurí Agreement. Also, Mr. Albert Dijksman can testify regarding the loss suffered by Llanos Oil as a result of the termination of the Guatapurí Agreement;

98. In particular, Llanos Oil requests your Honorable Court to hear:

- 1) Mr. **Rafael E. García Torres**
- 2) Mr. **Fabio Echeverri Correa**

or to have them heard. Mr. García can testify regarding the fact that the government of Colombia actively determines Ecopetrol's policy and that the government of Colombia intended to terminate the Guatapurí Agreement to enable US company Drummond Ltd. to take over the rights under the Guatapurí Agreement. Mr. Echeverri is the key figure in the proceedings through his position as Chairman of the board of directors of Ecopetrol, President Uribe's election campaign manager, Chief Advisor to President Uribe, Chief of Staff at the presidential palace, DAS policymaker and Drummond's general representative. He can testify regarding the circumstances under which the Guatapurí Agreement was terminated and the agreement with Drummond Ltd. was concluded.

99. If your Honorable Court needs additional evidence regarding Llanos Oil's claim, Llanos Oil explicitly requests to be given the opportunity to supply additional information regarding its claim.

THEREFORE

May it please the Court of The Hague, by a judgment having immediate effect and enforceable at any time before execution has been issued,

to declare it to be law:

- I. That Defendants failed imputably to fulfill their obligations toward Plaintiff or acted unlawfully toward Plaintiff by terminating the Guatapurí Agreement.
- II. That Defendants abused their powers by delegating the power to terminate the Guatapurí agreement to Ecopetrol's Vice President of Exploration and Production, in violation of Colombian law.
- III. That Defendants are liable towards Plaintiff respectively because of attributable shortcoming, unlawful actions or abuse of power, for the past, current and future loss (to be) suffered by Plaintiff as a result thereof, the exact extent of which is still to be determined, increased with the statutory interest as of the date of the summons or as of the date the damage will arise, if after the date of the summons;

and

- IV. to order Defendants jointly and severally – to the extent possible – with immediate effect to pay to Plaintiff, within 30 days after the notice of service of the judgment to be delivered in this matter, an amount of **\$ 7,610,750,000.00 (in words: seven billion six hundred ten million seven hundred fifty thousand US dollars)** as an advance payment on the loss suffered or still to be suffered by Plaintiff, at any rate an amount to be determined in all fairness by your Court, in exchange for a release upon payment, whereby the loss must be assessed by the Court and settled in accordance with the law;
- V. to order Defendants – to the extent possible jointly and severally – to pay the costs of these proceedings, including the costs related to the attachments, in exchange for a release upon payment.