

Nineteenth Progress Report on Cerrejón's Social Commitments after the Third-Party Review Panel (TPR) in 2008

Letter from Roberto Junguito, CEO of Cerrejón
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Ten years ago, Cerrejón started on a journey of strengthening our social strategy by requesting that a third-party panel of consultants review our social policies and intervention. The Review Panel was presided by Professor John Harker of the University of Cape Breton (Canada) and also included Salomón Kalmanovitz (Colombia), Elena Correa (Chile), and Nick Killick (Great Britain). It issued a series of recommendations encouraging Cerrejón (amongst other items) to adopt social standards for the proper management of environmental and social impacts, to strengthen our social strategy by implementing a system of four foundations dedicated to addressing La Guajira's main challenges, and to complete a series of commitments pending with communities in the area of influence.

The TPR marked a cutoff point in the company's social performance. More concrete actions took place through the Foundations System, it is true. However, there was also a transformation in our organizational culture, which became more committed to the prevention, mitigation, and compensation of impacts, improving engagement quality, and commitment to improving the standard of living of our neighbouring communities.

We are pleased to report that, in the six months since the last report, we met our commitment to deliver 21 houses for families in the Media Luna sector. Nineteen of the houses were built in the communities of Pioula and Pioulekat, and two (by community decision) were built in the municipality of Uribia. Pending are the commitments with the closure of the resettlements and the construction of the community centre for the Tabaco community. Significant progress has been made in these two pending commitments, but completion depends on decisions by the communities or by third parties.

We would like to note that, with the TPR celebrating its tenth anniversary, this will be the final report presented in this format. Information will continue to be provided on progress in both areas through our annual sustainability report. Details on the outstanding issues and other relevant facts of our social performance are presented below.

Resettlements

In mid-2017, the relocation of all the families eligible for resettlement was completed with the culmination of the agreements with the Las Casitas families. After more than 15 years of negotiations with the five resettlement communities, agreements were reached on collective or individual resettlements (in accordance with family preferences), all compensation was paid for differentiated impacts, villages were built with access to public services, and social and economic programs were carried out. Although one family underwent expropriation (as allowed by Colombian legislation and international standards), this family is now at the new settlement, receiving the same social programs, and has available the land and resources deriving from their

livestock when they wish to receive them. Our challenge continues to be restoring the livelihoods of these families, and in that line the following has been achieved:

- The two water treatment plants (one in Tamaquito II and the other for Roche, Patilla, Chancleta, and Las Casitas) are in full operation and producing high-quality drinking water. Unfortunately, the community of Chancleta did not allow the water mains transporting water from the plant to the community to be cleaned, as a result of which they would have had higher-quality water.
- The water pipelines for the production projects are completely finished, and Corpoguajira has granted the permits to withdraw water from the Ranchería River. Consequently, the families of Roche, Tamaquito II, Patilla, Las Casitas, and Chancleta now have the necessary water for their farming and livestock projects. We reiterate that the families that have not yet made use of their land should commit to doing so. We will continue to provide support to help ensure successful projects.
- The farming and livestock projects for Tamaquito II and Las Casitas are progressing very satisfactorily.
- Repairs to houses (performed by suitable members of the community itself) are also advancing on track. Currently, 58 of 109 houses needing repairs in Roche, Patilla, and Chancleta have been fixed. In addition, 76 agreements have been reached with the Patilla Community Action Group, the Patilla Association of Resettled Families, and the Roche Community Action Group.

Tabaco

Cerrejón is ready to begin construction of the Tabaco community centre. However, we are respecting the community's internal decision for the community centre construction works to wait until the municipality of Hatonuevo has started building the new site. Given progress made by the regional government, Cerrejón has been encouraging the review of this decision in a new assembly.

We continue to support the municipality of Hatonuevo in regulating land use in the context of current regulations so that it can advance in undertaking the necessary steps to build the village on the La Cruz property, thereby complying with the ruling on it in 2002. Furthermore, the municipal administration and the community are progressing in their updates to the population census and the implementation of eligibility criteria to prioritize investment with the Tabaco families.

It has come to our attention that certain members of the Tabaco community are demanding that Cerrejón hand over the entire 480 hectares of the La Cruz sector for building the village, stating that the 189 hectares provided for construction are insufficient. We have been transparent and timely in notifying the amount of land that can be provided based on an engineering zoning survey establishing the area available for the community and reserving a portion for environmental protection. It must be noted that the original negotiation with the Tabaco community dealt with a land area of just 14 hectares of inhabited land. As a result of the agreement, 189 hectares were provided to guarantee more available space.

The Constitutional Court continues to review the application for the protection of constitutional rights (*tutela* action) presented by the Hatonuevo Ombudsman and the Tabaco Social Pro-Relocation Committee. In it, they request that Cerrejón's license be suspended, that they be once more compensated, and that the negotiating

process be restarted with the community, retroactively applying current standards and jurisprudence. We are still awaiting the final decision in this case, which was ruled in Cerrejón's favour in the first two instances.

In addition to these two commitments, we would like to mention the status of other situations of interest to our stakeholders.

Status of prior consultations

a. Consultations concerning the La Puente pit expansion project (Bruno Creek)

Progress is being made on complying with the agreements reached in the prior consultation with the community of Campo Herrera, leaving as active only the commitment for environmental monitoring of the project for a duration of three years. Compliance has been verified by the Ministry of the Interior. The most noteworthy achievements include strengthening the community's economy by providing a 40-hectare property for production projects and delivering livestock; cultural strengthening by building a tradition thatched hut and holding special days for Wayuu traditional games, dance, and music; delivering 10 hectares as a buffer zone for the deep well providing the community with water; and building a plant nursery with native species for repopulating native species in the community's environmental protection zone and for providing income as they now supply plants for Cerrejón environmental offset projects.

The consultation with the community of La Horqueta 2 (located 4.7 km from the site of the project's engineering works) started in February of 2017 and was closed by the Ministry with no agreement reached. However, the Council of State ordered the consultation to be reopened in July of 2017. Despite delays on the methodological roadmap, there are already agreements on impacts, and progress is being made on management measures, which will become agreements. In addition, we are waiting for the Ministry of the Interior to issue the resolution including the communities of El Rocío and Tigre Pozo in consultations since they share the criteria defined in the decision.

b. Consultation on Resettlement Processes

Rulings by the Constitutional Court and by the Council of State defend the fundamental right to prior consultation on resettlement measures. The first ruling was in favour of Patilla and Chancleta and the second ruling was in favour of Roche.

The ruling on Roche by the Council of State established the necessity of two prior consultations. The first one was for the 25 resettled families to define the type of property ownership at the new site (horizontal property or collective land held by an Afro descendent community). The second consultation aims to have the Roche families who sold their properties and improvements to Cerrejón between 1997 and June 10 of 2003 and were not part of the formal resettlement process to receive the same indemnity and compensation.

- For the first consultation, despite multiple sessions with the National Land Agency (ANT, its initials in Spanish), the Ministry of the Interior, and various oversight bodies, the 25 families did not define the type of property ownership they wished to have. This led the Ministry of the Interior to formalize the prior consultation with no agreement reached. The order of contempt presented by the community was

based on their understanding that the ruling established to achieve the economic sustainability of the families; however, it was ruled the plaintiffs since it was considered that the spirit of the ruling referred to the search for the cultural sustainability as a community of African ancestry.

- In the second consultation, an agreement was reached in May of 2018 on the number of families eligible for compensation in accordance with the criteria previously defined jointly, which established that 33 families meet the criteria and should receive compensation.

In the case of Ruling T-256 of 2015, the Constitutional Court ordered that the resettlement measures of the plaintiff families be carried out through prior consultation. In December of 2016, the consultation was formalized, reaching agreements with 60 out of 62 families. Cerrejón has already disbursed one hundred percent of payments to families. Although the two remaining families filed a contempt of court challenge, the court ruled that the two families should subscribe to the agreement reached during the consultation. Cerrejón will continue to hold talks with these families with the aim of ensuring they receive the compensation to which they are entitled. Once all payments are made, we will request that the authorities hand over the properties. There are still uninhabited properties on which no agreement has been reached due to differences regarding the compensation amounts. Cerrejón will continue to hold talks to reach agreements and do our utmost to prevent expropriation processes.

c. Consultation on Puerto Bolívar Projects

In compliance with Section 3 of Ruling T-704 by the Constitutional Court on December 13 of 2016, Cerrejón and 15 of the 16 Media Luna communities reached agreements on impacts and management measures resulting from the partial expansion of the water desalination plant in Puerto Bolívar, to which a desalination module will be added. This section ordered a prior consultation with the three communities of Media Luna Dos. However, upon Cerrejón's request, the consultation was extended to all 16 communities comprising the Media Luna sector.

d. Review of the Comprehensive Environmental Management Plan (CEMP) and the Mitigation and Offset Plan

In addition to consultation with the Media Luna communities, Cerrejón has been complying with the other orders covered in Ruling T-704 of 2016 and providing monthly reports on progress to the La Guajira Regional Judiciary Council. Once the socialization for the Immediate Mitigation Plan was completed, Cerrejón made internal preparations to address consultations on potential damages caused in our 30 years in operation. At the end of April 2018, we filed a request with the Ministry of the Interior to start the consultation process with the communities in the Media Luna sector. At the same time, we are holding talks with two groups of communities that have expressed interest in kicking off social dialogues: the group belonging to the Albania Wayuu Indigenous Authorities Association (AIWA) and the group in the Wayuu Nation Indigenous Movement.

We are awaiting decisions by the ANLA regarding the review of the CEMP, and we look forward to working with the appropriate authorities in compliance with the directive.

We remain convinced that this is a great opportunity to reach an understanding with the communities in the area of impact regarding operational impacts and concerning the pertinence of our management measures. We

hope that respectful dialogue will allow us to strengthen trust, improve engagement, and reaffirm our commitment with contributing to improving the standard of living in these communities.

Although this reporting cycle is ending, we maintain our commitment to continue working on improving our performance, keeping open, transparent communications channels, and decisive contributions to improve opportunities in communities in the area of impact as well as contributions to the development of the department of La Guajira. We are available to answer any questions that might arise with our stakeholders concerning our activities.

Cordially,



Roberto Junguito
CEO
Cerrejón