

Resettlements and Tabaco

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PANEL RECOMMENDATIONS

All parties should focus on what they can do now to assist the communities divided or affected in any other way so that they can better share in the positive impacts of the Cerrejón mining operation.

CERREJÓN RESPONSE

In addition to the specific actions for improving our contributions to the community, we also support the suggestion by the panel to undertake a symbolic rebuilding initiative that will result in greater identification and strengthening of the community. We will work with older residents to determine what degree of support the action will enjoy and what would be the most relevant and valuable initiative for them.

KEY ACTIONS PROPOSALS AND PROJECTS

Build the symbolic site of Tabaco

Improve the standard of living in the Tabaco communities. (New business projects for their community.)

START DATE

20 - August - 08

01 - April - 08

FINISH DATE

31 - December - 09, new date depending on various factors

01 - December - 09

PROGRESS

The handing over of 175 hectares of the Tabaco (150 hectares) and Tabaco 2 (25 hectares) properties to the municipality of Hatonuevo specifically targeted for the physical and social rebuilding of Tabaco was formalized, completing a total delivery of 189 hectares.

The detailed engineering for building the community centre is in its final stages and currently being reviewed by Cerrejón's technical area. The next step is to obtain the community's approval and to begin the tender process for selecting the contractor and subsequent start of the works.

The Hatonuevo administration initiated the zoning studies of the properties for the purpose of determining the optimal area for locating the residential area.

The Tabaco Pro Relocation Board is conducting a self recognition process of the people that inhabited Tabaco taking into account the increase of population in the past years and aiming to recover their social fabric. The Board is currently validating with the community the criteria used in the 2010 census and applying new criteria that may allow to characterize the community properly.

This activity will be used as an input for the identification of the beneficiaries of the reconstruction process that will be led by the Hatonuevo Mayor's Office.

The Constitutional Court continues its review process of the application for the protection of constitutional rights (*tutela* action) presented by the former municipal ombudsman of Hatonuevo and the members of the community represented in the Pro-Relocation Social Board of Tabaco.

Cerrejón's first support in 2008 focused on the financing of production projects for 52 families of the Tabaco Self-Development Network, investing COP 2.3 billion. The projects include agriculture, small businesses, transportation, scholarships for education, and actions designed to strengthen the community's administrative ability and cultural identification. Cerrejón provided support for the three workshops conducted to promote the reconciliation and social integration of the community (2010, 2011, and 2012). Currently, we continue strengthening the social work with the families, consolidating their participation in the eight programs supported by Cerrejón and implemented by the Tabaco Self-Development Network:

- 1. Micro-business creation and strengthening program:** Business entities were created and strengthened through loans from the Tabaco Social Fund, and conducting training and advisory sessions. Since 2007, 105 loans have been granted for a total of COP three million. Twenty-seven (27) of them are now finalized and, as of October 2016, there is a significant rise of loans in arrears (89%), thus losing a significant asset for granting future loans and limiting the fund's activity. Alternatives are currently being evaluated for handing over the administration of the fund to a third party (financial entity) or the community (cooperative), which would then take charge of managing the business and educational loans. The organization would be made up of representatives from the different family units in Tabaco.
- 2. Creating income program:** Looks to create economic opportunities through provision of services and the search for employment alternatives at Cerrejón, its contractors, and other companies in the region. Since 2011, our efforts have enabled 45 people to find employment to date, including seven professionals, 14 technicians, and 24 secondary school graduates.
- 3. Association development program:** Cerrejón supports the establishment of collective business enterprises amongst members of the Tabaco community. To date, two business associations have been formed:
 - **Asored- Tabaco,** an association of agricultural producers of the Tabaco network, which is an organization made up of 29 associates dedicated to raising livestock (meat and milk). Cerrejón has supported it through two agreements: strengthening the agricultural sector (2010–2013) and strengthening the productive and organizational activity of the association (2014–2015). Through this initiative, 28 families from the community have been included in the Ministry of Agriculture's Fruit and Vegetable program to be established in the La Cruz building. As of October 2016, five plots covered with netting have already been installed. This project includes technical assistance, training, supplies, seeds, and marketing of the harvests. The value of each productive unit is COP 28 million.
 - **Department Association of Tabaco Women:** This organization of 15 mothers, who are heads of families, is dedicated to the production and marketing of food products. Cerrejón has supported it through two agreements: Development of productive projects (2012 - 2013) and strengthening the productive and organizational activity of the association (2014 - 2015), which was extended until 2016. An association development project is currently underway with 14 mothers, who are also heads of families, from the Tabaco community living in the south of La Guajira, in the municipalities of Fonseca, Barrancas, and Hatonuevo. Through this initiative, the group of women opened the Tamú restaurant. The Association of Women submitted a project to the German Embassy in March, 2016, for strengthening their initiative of production and marketing of food products. There has been no response to date.
- 4. Education program:** Look to provide opportunities for young people of the community to have access to schooling by awarding scholarships and educational grants for paying enrollment costs for higher education (professional and technical degrees), monthly stipends, and vocational guidance. The funds are drawn from the Tabaco Network fund. Between 2007 and 2015, 222 scholarships were awarded, 105 for higher education and 117 for education assistance.
- 5. Senior adult support program:** Complementing the programs directed by the municipal governments of Hatonuevo and Albania for comprehensive care of senior adults, Cerrejón supports entertainment, recreational, health, and integration activities for 43 senior adults of the community.
- 6. Health program:** Looks to increase awareness and participation of Tabaco community families in the health days being conducted under the agreement between the health program of Cerrejón's Social Management division and Nuestra Señora del Carmen hospital in Hatonuevo. An annual average of 156 people were attended to at the health days from 2010-2016. An additional 308 people were attended to during three health team operations conducted in 2009 (210), 2011 (50) and 2014 (48).
- 7. Recreation, culture, and sports program:** Training and technical guidance for children and young people of Tabaco residents in Albania and Hatonuevo to develop their skills and abilities in music (instruments, song, and dance), and sports (football and mini-football) to strengthen their physical and academic abilities. Currently there are 39 young people who benefit from the music program in Albania and 31 in Hatonuevo, 26 youths benefit from the dance program in Albania, 20 children take part in the football program, and 10 more in mini-football.
- 8. Physical rebuilding of Tabaco:** Information in the column to the left.

IMPLEMENTATION STATUS

Risk of not completing project as planned, but progress being made.

Completed

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PANEL RECOMMENDATIONS

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Cerrejón must recognize that the resettlement processes based on international standards should not only be established when a physical resettlement is required, but also when the communities are affected by their proximity to the mine and its impact on other communities.

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A broad concept of "affected community" must be embraced by Cerrejón as a key stimulus of its focus with regard to both resettlement and with being a good neighbour, including how communities that are viewed as "affected" but not "displaced" are treated.

CERREJÓN RESPONSE

Cerrejón agrees with the panel that it could be necessary to undertake a resettlement when a community is adversely affected by the indirect impacts of the mining operation. This concept has been incorporated into our resettlement principles.

KEY ACTIONS PROPOSALS AND PROJECTS

Issue a new declaration of resettlement policies.

Develop and reach agreement with the affected communities on a timeframe for their resettlement processes.

Develop indicators for measuring the current standards of living of the communities that are going to relocate, and identify key actions for improving them.

START DATE

16-Jun-08

01 - January - 08

20 - August - 08

FINISH DATE

30-Sep-08

(Original final date, 9/30/2008). The new deadlines will depend on dialogue with the communities.

10-Feb-09

PROGRESS

This is our declaration: Cerrejón adheres to the guidelines of the World Bank and International Finance Corporation (IFC). We view resettlement as an opportunity for dialogue with local communities, improvement of their standards of living, and building social capital. We hope and expect the resettlement process underway strengthens sustainable development in La Guajira.

Roche: The 25 families eligible for relocation are now in the new village and Cerrejón continues with its post-resettlement support, including the family of Tomás Ustate, who was the last family to move after an expropriation process. The status of the property remains the same as described in the previous report. The primary infrastructure for irrigation of the plots handed over to the families for agricultural projects is now completely operational and in use by the families who requested it. The prior consultation processes ordered by the judicial ruling of the Council of State are now in progress:

a) With the 25 relocated families to determine the type of property for the assets received (collective or horizontal): In order for the families to have access to sufficient information about the type of property, and working through the National Land Agency (ANT) and the Ministry of the Interior, several seminars were conducted to analyse the scope of collective property and horizontal ownership to determine the advantages and disadvantages of each one. The 25 families filed a contempt of court motion in the administrative court of La Guajira because they interpreted that the scope of the Council of State's ruling included the family's economic subsistence. On June 10 of 2017, the court's decision turned out to be unfavourable for the plaintiffs since the court adhered to the concept advanced by the Council of State stating that that subsistence referred to the physical and cultural identity of the Afro-Colombian community, and not its economic subsistence.

b) With all the families who sold their properties between 1997 and 2003 to receive the same treatment as the relocated families: The Roche Village Ancestral Community Council presented a list of 514 people to Cerrejón. After reviewing the list against the previously defined criteria (having inhabited and sold their properties in the period indicated), Cerrejón found that 27 residents could be equated to the families that were collectively relocated. These residents will be subject to a validation process to ensure they fulfill the requirements for their final inclusion. The Ancestral Council presented a contempt order against the company for the great differences in the number of potential beneficiaries. We are waiting for the decision on this appeal.

Patilla and Chancleta: The 46 families of Patilla eligible for relocation moved to the new site in June, 2012. As for Chancleta, 38 of the 56 eligible families were relocated to the new site since 2012, nine others decided to relocate to other towns, and the remaining nine families accepted the agreement resulting from the prior consultation process, formalized in December, 2016, and were moved individually. The families at the new sites continue to receive the agreed-on post-resettlement benefits. The primary infrastructure for irrigation of the plots handed over to the families for developing agricultural projects is now completely operational in Patilla and in use by the families who requested it. We expect and hope the Chancleta infrastructure is ready before the end of 2017.

Patilla and Chancleta Tutela Action: After conducting the prior consultation process and formalizing an agreement in Dec./2016, 60 of the 62 participating families accepted the agreement, handed over their properties, and moved from the original site. The Ministry of the Interior requested that the Barrancas Judge make a decision about the resettlement measures of the two families that did not accept the agreement. We are awaiting that decision. These families do not live in the original place (Patilla), and their improvements are occupying properties owned by Cerrejón. The Ministry of the Interior has called for quarterly meetings to monitor and follow up on the implementation of the agreements. Fifty-two (52) families have received the total payment agreed on, and the 10 remaining families have 70% of the compensation pending, under the terms of the requirements in the life plans and accredited purchase of a residence, as established in the agreement. The respiratory tract examinations also requested by the community were conducted by the Colombian Pneumology Foundation.

Las Casitas: 100% of the families residing in the village centre and rural area (62) signed relocation agreements and moved from the original area. 99% of the properties have been acquired (74 of 75). The San Juan del Cesar Judge set Dec. 15, 2017 as the date for the early handover of the remaining rural property after having postponed the initial proceedings planned for July 31, 2017. We hope and expect it will be possible to avoid this event given the good relationship amongst the parties involved and our interest in reaching a negotiated agreement. Meanwhile, the families relocated to the new site continue receiving support from Cerrejón and the programs defined in the resettlement agreements. As part of our commitments to the families, the building of a water pipeline for production projects has started, and we expect it to be ready for use in the first six months of 2018. We also continue supporting the design and implementation of a collective agricultural project that the community has taken the initiative in launching.

Tamaquito II: The 31 families living in the new village since August 2013 are receiving the agreed-on social programs. In compliance with the additional agreement signed with the community in Dec/2016, we are delivering the resources to support the implementation of a collective production project by the community, the resources for strengthening the production projects of families, and have started building the water pipeline for agricultural projects. As far as actions to improve water for human consumption, we delivered a new drinking water treatment plant to the community in June 2017 for the purpose of reducing operating and maintenance costs, and continuing with technical support of the operation by the supplier. We also continue supporting the establishment of the community as an indigenous reservation.

Education programs: The Educational Strengthening program aims to promote the abilities, knowledge, and skills of school-aged children with the intention of facilitating their entry into institutions of higher education. It also includes vocational guidance and training in information and communications technology (ICTs) for adults. In the first six months of 2017, 285 people benefited from the different components of the program. An additional 227 students have received educational assistance (enrollment fees and monthly stipends) to pursue university degrees, certificates of technical competence, technicians, and master's degrees in various institutions around the country. Seventy-four (74) students have graduated (one specialist, eight professionals, and 65 technicians and technologists). We have also enrolled 26 young people in the vocational guidance program to begin their studies in the first half of 2018.

We have hired an international consultant (Intersocial) to define clearer indicators about the conditions of the families before and after their resettlement, with the intention of identifying gaps and define actions that will enable us to support the restoration of their means of life. We hope and expect to complete the definition and measurement of the indicators in 2018 in order to start implementing the actions they determine.

IMPLEMENTATION STATUS

Completed

Level of fulfillment will depend on new dialogues with communities

Completed

The Wayuu - Culture and employment

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PANEL RECOMMENDATIONS

Doing everything possible to reunite the Media Luna community, at least socially if not physically, must be a priority for managing the social impacts of Cerrejón.

CERREJÓN RESPONSE

The panel recommendation has our support but clearly also requires the consent and participation of the Wayuu community involved. Cerrejón management will facilitate discussions with the clans to determine what their aspirations are, and to define the areas where Cerrejón can offer support to this community in obtaining its goals and resolving its socio-economic concerns. Through consultation with the community, a support program will be developed to be implemented over a six-month period.

KEY ACTIONS PROPOSALS AND PROJECTS

Develop and implement an internal improvement program.

Build a healthcare centre.

START DATE

02-Feb-08

01-Mar-08

FINISH DATE

30 - December - 09 (scheduled new date, 30 - November - 2016)

30 - December - 09

PROGRESS

The commitment assumed by the Uribia Mayor and Cerrejón to build in this municipality the two pending houses for the families that were not allowed to build in the Media Luna sector is making progress. The Mayor's Office acquired the plot located in the Villa Fauta neighborhood. The other plot, located in the La Florida neighborhood, was donated by the beneficiary, who preferred to use for her home as it is a more centrally located. In turn, Cerrejón, which initially made a commitment to buy the materials for the two houses, decided to build the two dwellings based on the design delivered by the Mayor's Office and agreed on with the beneficiaries. Related to this commitment, a soil analysis was conducted on the two plots and the designs and plans for the houses have been carried out. We are currently in the process of selecting and hiring the contractor to build the two houses. We must begin the building work in the first week of November, and construction is estimated to last 60 days. .

Concerning the request made to Cerrejón by the Kamusuchiwo'u community for land within the reserve area, the company made a decision it will first share with the National Government (National Mining Agency and Ministry of the Interior) in order to then inform the community.

We continue distributing water using tanker trucks in the Media Luna communities. A total of 210 m3/week is distributed from the desalination plant of Puerto Bolívar. This support benefits 850 children at the Kamusuchiwo'u Education Institute, 110 children at the ICBF kindergarten, 80 children from the CDI, and the Media Luna healthcare clinic. Since the drought emergency declaration by the mayor of Uribia in April 2014 that remains in effect to this day, Cerrejón has also been delivering 140 m3 of water/week to the 55 communities of sector IV along the railway line (Km 119-143). A total of 350 m3 is being delivered every week in this area.

Additionally, we continue providing support for sports, recreation, and cultural activities.

In August 2009, a healthcare centre and a nutrition recovery centre were built.

Over the last few years, the Media Luna centre has been strengthened through improvement of the facilities, repairs to the water tank, hydraulic installations, an elevated tank and delivery of resources, including a dental unit equipped with complete facilities and instruments, and an electric generator with a permanent fuel supply.

A mobile healthcare unit has been assigned for promotional and prevention activities, general medical examinations, and monitoring of prenatal growth and development.

IMPLEMENTATION STATUS

Cerrejón's involvement in Media Luna goes beyond these two tasks. We have structured a comprehensive program aimed at health, education, infrastructure (water and housing), and creation of incomes. The communities have already been consulted on some specific components.

We expect to close the commitment in 2017.

Completed