

Fourth Progress Report on Cerrejón's Social Engagement Commitments Following the February 2008 Independent Third Party Review Panel's Report

Letter by León Teicher, President, Cerrejón

April 30th, 2010

The October 2009 report of Cerrejón's progress implementing the recommendations of the International Panel that reviewed our social engagement in 2007 stated that the company intended to conduct by January 2010 a final assessment of the activities during the past two years. Cerrejón and its shareholders have decided to continue producing progress reports in 2010 until key outstanding commitments are addressed. Today, Cerrejón has completed 16 of the 24 committed action items intended to drive relevant changes to the way we address social impacts and engagement.

In addition, we are pleased to announce that we have commissioned a second interim review of the TPR activities, which has been carried out by Social Capital Group (SCG) based on extensive consultations with local communities in La Guajira. SCG is the organization chosen by the International Panel back in 2007 to conduct field research on Cerrejón's practices and thus has gained in-depth knowledge of local dynamics and Cerrejón's operation. We believe this external review is in line with the 11 principles set out in the Cerrejon Way, a product of this process. The Cerrejon Way recommends that we periodically undertake external reviews to examine our performance and keep abreast of community and other stakeholder perceptions and expectations.

The following progress report will describe key activities and challenges during the past six months.

The Regional Development Forum: its meaning and expected impacts

The *Gobernación* of La Guajira, the Guajira Competitiveness Council (which gathers key local businesses and institutions), the think tank Observatorio del Caribe Colombiano, the Colombian NGO Redepaz, Chevron and Cerrejón co-hosted the Guajira regional development forum, which took place in Riohacha on November 18, 2009. *Building a Future: Perspectives on the Sustainable Development of La Guajira* was an important engagement process that brought together groups of people that are at the heart of La Guajira's development, from grass roots organizations to national government representatives, Wayuu and non Wayuu communities, small and large businesses, practitioners and academics. It was a unique opportunity for La Guajira to be heard and seen, to be proud of its heritage and to talk about how future royalties could be invested to best contribute to sustainable development. Nearly 350 people attended the preparatory consultations in the North, in Uribia, and in the South, in Barrancas, as well as the forum and the foreign donor roundtable sessions hosted by local and national authorities immediately after the forum, on November 19 and 20. The roundtable featured 14 donor countries and United Nations agencies, whose technical know how and political leadership should galvanize effective social and economic investment in the region.

The process has created new momentum, hope and concrete initiatives with regards to La Guajira's development. We expect to witness its effects in 2010 and 2011 as foreign development aid increases and strategic agencies such as the National Planning Department coordinate closer with the *Gobernación* and municipalities on various topics.

Previously, in October 2009, the Cerrejón Foundation for Institutional Strengthening of La Guajira had organized a two-day forum on royalties. It focused on empowering local civil society to exercise social control over the substantial amount of money Cerrejón and others pay to local municipalities and the Guajira province in the form of royalties and taxes, which is how social benefits are meant to reach the communities. Key national authorities who attended, such as the Finance Minister, the Comptroller General and the Anti-Corruption Zar, encouraged greater transparency and higher quality in local public social spending.

It is worth noting that all attendants expressed one important concern: the ongoing presence of criminal organizations in La Guajira, which some believe are the offspring of former illegal paramilitary and guerrilla organizations. Tensions between Colombia and Venezuela were also perceived to hinder democracy.

Tabaco Update: compensation, reconciliation and coordination

All of the agreed indemnities have already been paid. The Tabaco Agreement was reached on 12 December 2008 and all the new compensation money was deposited in a fiduciary account at the BBVA bank in Riohacha for people to collect. By January 2009 70% of people had collected their compensation. By April 2009 92% of monies had been paid; and by May that same year 99% had been paid. The final 1% of this agreed additional compensation to beneficiaries involved a legal inheritance processes was paid in December 2009.

In all, 7 Tabaco community members had left their old compensation (available in 2002) in a special escrow account controlled by the local judicial authority of San Juan del Cesar municipality. All of these persons began collecting their money in January and February 2009 after the agreement was signed. The last payment was made in May 2009.

Former Tabaco residents chose La Cruz as the site for the community center Cerrejón committed to deliver and, potentially, the new town. It has taken us, the company and the Tabaco representatives, a long time to purchase this farm due to legal practicalities: the land was amidst succession proceedings involving 46 different heirs. Today, all formal property registrations have concluded and the purchase should be completed within days. There are still important steps ahead:

- The Hatonuevo municipality and the Tabaco community must decide what part of the land will be used for housing, for agriculture and cattle ranching and for environmental conservation. And the municipality and the council will have to approve the new urban use of this land.
- Cerrejón will officially donate the land to the municipality and a community participatory process, which the company will support, will have to be put in place to assign specific plots to the Tabaco families that wish to start anew in the site, maintaining the community's old social fabric.

Reconciliation between the two Tabaco groups that formed after the land acquisition process in 1999-2001 has now become extremely relevant as the community as a whole makes decisions on the future of the new town.

Tensions among former Tabaco residents and lack of coordination had stalled progress in the reconstruction of Tabaco and the delivery of Cerrejón's contributions for socio-economic projects following the 2008 December agreement. Last year, former Tabaco residents, both from the Endogenous Network that was set up in 2006 and from the Tabaco Relocation Committee that

questioned the land acquisition process, set up a steering group along with the Hatonuevo municipality. They now meet regularly to agree on specific actions needed to materialize the reconstruction of Tabaco. Addressing these old scars and generating trust have been a major focus of our attention. On February 5-7, more than 200 former Tabaco residents, including representatives from the Tabaco Relocation Committee and the Endogenous Network, gathered in a rights-based reconciliation workshop facilitated by an independent consultant. Cerrejón staff and local authorities also took part, reasserting their commitment to help the community in their process of reconstruction of Tabaco, as per their decisions.

Independent advice for the resettling communities and trust-building

Some of the resettlement communities requested in 2009 that Cerrejón pay for independent advisors that they could rely on to examine how the resettlement process has been undertaken in comparison to leading practices and to ensure that the process respects their rights. Identifying transparent, independent and knowledgeable advisors who the community could trust and who could commit to contributing towards a successful resettlement that benefited the people was the initial focus. Today, Cerrejón and two of the resettling communities, Roche and Tamaquito, have agreed on having Indepaz, a Colombian NGO working on development, peace and business and human rights, as the independent advisor. Cerrejón hopes that this key step in the resettlement helps bring much needed trust between the parts.

We have spoken about the need for honesty and good will as a fundamental principle in our conversations. Cerrejón is optimistic that an open and transparent process based on shared information will be very helpful in reaching a successful resettlement. But we strongly oppose pressure tactics by external observers or community members that sully the good names of any party involved in this process. Cerrejón reiterates its firm commitment to addressing community social impacts according to international best practices that incorporate a rights-based view as well as guidance on the distinct roles of states and private businesses in addressing such rights.

Resettlement review

As part of our progress review and after listening to the concerns of some resettlement community members, Cerrejón asked SCG to conduct a comprehensive assessment of the five ongoing resettlement processes. The exercise resorted to extensive community consultation and these were the strengths and weaknesses found:

- The resettlement processes facilitated by Cerrejón responded to international standards and have been based on participatory processes.
- Better archival documentation is needed as well as improved information tools upon which to base community dialogues with regards to compensations.
- Cerrejón needs to be more efficient about putting in place short and long term socio-economic projects.
- Trust-building and continuous and effective communication should be a priority.

As committed by Cerrejón and its shareholders, there will be a mechanism by which independent social experts will conduct periodic external assessments of this nature. The purpose of this is to obtain an independent view on how our social approach is progressing. We hope this can ultimately help increase trust with local communities, clarify misperceptions and contain the interests of violent actors or opponents of democratic values and private enterprise that may not necessarily be interested in a fair resettlement processes taking place in La Guajira.



Cerrejón

Responsible Mining

Media Luna

The 2008 Panel report called on Cerrejón to coordinate with state authorities in order to improve the welfare of the communities of Media Luna, specifically Malla Norte and Malla Sur, located close to mine export facilities in Puerto Bolívar. Since then Cerrejón has increased its engagement and finished the committed health facility. The community is still very vulnerable and the recent drought affecting Colombia and La Guajira affected their access to water and food. We now have a full time social coordinator devoted to finding development solutions with the communities and the Cerrejón Foundation System has also stepped up its engagement. Cerrejón's initiatives include the improvement of fishing techniques, the construction of an artificial reef to generate fishing resources, entrepreneurship assistance, generating potable water solutions, and the improvement of goat-raising

We are aware of new grievances related to basic needs, land property and subsequent access to state benefits. Malla Norte and Malla Sur are located outside the 1.067.505 hectare Alta and Media Guajira indigenous reservation constituted in 1984 and thus could be losing out from entitled benefits. Instead, the Malla Norte and Malla Sur families chose in the 1980s to stay in the land that was granted to Cerrejón for industrial use. This has never constituted a problem before either for Cerrejón or the community. We have peacefully coexisted alongside. However, some community members have different expectations now and would like to see this area as part of the reservation.

Cerrejón is working with the local authorities and the communities to have shared and transparent information with regards to the legal status of the areas where Malla Norte and Malla Sur are located today and to work together not just on a home-improvement program but on an integrated socio-economic development initiative. It will be key for all parties to make sure that any possible dust impacts on new residential areas are taken into consideration.

Next Steps

As mentioned in the previous report, Cerrejón will carry on honoring its commitments derived from the Third Party Review Panel. These commitments have complemented Cerrejón's sustainability initiatives and continue to be embedded in our culture and daily practices, in what we call the Cerrejón Way.

Sincerely,
León Teicher
President
Cerrejón