



**External technical review report regarding  
progress in the implementation of the  
recommendations of the Third Party Review**

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**Prepared for:**

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## **1 INTRODUCTION**

This report presents the main findings from the external technical review process concerning compliance by Cerrejón Coal with the recommendations of the Third Party Review (TPR), and of the commitments taken on by the company in improving its Corporate Social Responsibility policies and actions.

The company requested Social Capital Group (SCG), in accordance with the recommendation of the Third Party Review Panel, to carry out, for the second consecutive year, a technical review of Cerrejón's progress in order to identify the main achievements, trends, and remaining challenges to improve the company's performance. To this end, the company offered SCG access to all available information, as well as the authorization to independently issue opinions and recommendations it may consider necessary to provide to the process of improving management. SCG once again approached the main local groups involved in community relations with the company in order to review with them the progress and outstanding topics in Cerrejón Coal's social engagement.

Since 2008, the company has identified ten key topics based on the TPR recommendations. These topics generated twenty-four commitments by the company, presented according to specific themes. This document presents the main achievements identified by the review in each of the topics proposed by the TPR, making observations that may contribute to the necessary monitoring and management adjustments to ensure the appropriate implementation of the TPR recommendations and of the commitments shouldered by the company.

## 2 MAIN RESULTS OF THE REVIEW

### 2.1 CERREJÓN'S CORPORATE CULTURE

TPR RECOMMENDATIONS	COMPANY COMMITMENTS
1 The TPR recommended that Cerrejón develop its own corporate culture in order to set itself apart from the companies that preceded it (Exxon and Intercor). This new image and corporate culture should be built on the basis of the company's interests and of those of the local communities in La Guajira.	Develop an operational culture that will prioritize interaction with stakeholders, to which end it would work on a declaration of their culture and values to be communicated to all employees and stakeholders.
2 The TPR recommended starting internal training and instruction aimed at transforming the company's operational culture, publicly reporting on its progress.	Start training plans that contribute to the transformation of Cerrejón's operational culture and communicate the results.

#### Progress:

In 2008 and 2009, the company's senior management has led a review of the vision, values, and principles they feel should orient the company's new style of management in the coming years.

In the second half of 2008, the President and his extended management group implemented a series of workshops in which they defined a framework of 11 principles that comprise what the senior management termed the Cerrejón Way. In 2009, the Department of Human Resources, in coordination with Cerrejón's President's office, designed a process for the formal dissemination and awareness\*\*\* in the Corporate Cultural Transformation Plan, which seeks to generate a change in the company's organizational culture.

The initial stages of implementation took place in the last half of 2009 with workshops aimed at middle management. In April, similar sessions started (totalling over 30) with employees from all company areas and from various populations in La Guajira, the aim being to reach the more than 5,000 direct employees of the operation.

A communications process also began, with a new corporate motto: "Cerrejón: Responsible Mining". According to company management, this represents the new culture to be instilled for coming years. This corporate motto has started being used in all official communications and public announcements from the company.

#### Notes:

The interest of Cerrejón's senior management in driving forward a cultural transformation of their organization is evident in the solid fact of the investment in company time and resources on this and other commitments derived from the TPR. The Department of Human Resources and the President's office are focussing efforts on generating changes in the common perception and vision of all of Cerrejón's officers and workers on the company's responsibilities

with its social and environmental setting. This effort can be seen at work in the generational shift the company is currently undergoing, incorporating new managers and officers with new experiences and viewpoints suited to the new management style they are aiming to implant.

However, this effort is still underway, and its impacts inside and outside the company are as yet limited. Many officers who have begun to be trained in the new corporate viewpoint support the process, are in full agreement with its principles, and feel it is a positive evolution based on the company's years of experience. However, they believe that the Cerrejón Way is a product of the company's senior management, and they feel it should be even more participative in order to ensure its complete and quicker assimilation at all levels of the company.

It is important to improve the methodology to be used in upcoming stages of dissemination of the new corporate principles in order to better integrate the viewpoints of all the company's internal stakeholders, including its subcontractors. This group comprises a workforce nearly equal to the company's permanent staff, and they cannot be put aside in the process of reviewing and renewing Cerrejón's organizational culture.

It is important to complement the activities involving information and dissemination on the topic of the corporate cultural change with effective strategies of ongoing training and quality groups to ensure and monitor the introduction of the company's operating standards and principles in other environmental affairs and in industrial safety. These strategies can contribute to a rapid, effective incorporation of viewpoints and practices in every single operational unit in the company.

## 2.2 SOCIAL ENGAGEMENT

	TPR RECOMMENDATIONS	COMPANY COMMITMENTS
3	The TPR recommends that the company implement a redesign of its tools and processes for the appropriate management of the social impacts in its setting.	Structure a new management team with the aim of improving all aspects of the company's social programmes, employing people who are more committed to the community, and ensuring ongoing consultation with the communities to make sure that the information and opportunities offered are suitable for local needs.
4	The TPR recommended that Cerrejón implement a view of liaisoning with local communities that goes beyond mere compliance with legal responsibilities and allows the building of trust between the company and local stakeholders.	Implement a new focus based on international standards that establishes formal commitment programmes to improve and profile the achievement of common goals in social development.

### Progress:

In the two years since the TPR recommendations and report, Cerrejón has verifiably made concrete, deliberate efforts to reorganize its management strategies and structures in social affairs.

From 2008 to 2009, the company altered the structure and responsibilities of the organisms in charge of social engagement, incorporating new functions, joining areas or moving units from one department or management sector to another in the search for optimal internal coordination and decision-making. These changes have raised the level of the social engagement sector in the company from a small division with less than 18 staff members, attached to the public affairs area, to the level of a department with over 60 staff members. One of the first heads of the social area after the start of the reforms now leads a new Vice-Presidency of Sustainability, which incorporates important functions in communication, protection, international standards, and social engagement that were previously less well coordinated.

The Presidency of Cerrejón has promoted these organizational changes and has directly led the the strengthening of social issues as key topics for the operation which deserve high management levels, equal to the technical topics in the organization. The managers of other areas and departments state that they recognize the strategic importance of good social engagement to allow mining operations that are efficient and also responsible as regards their social and environmental setting.

Since April of 2009, the newly created Department for Social Responsibility has undertaken a process of reviewing its concepts, criteria, tools, and programmes. To that end, following the TPR recommendations, the company turned to international specialists and organizations with experience in social engagement in the mining sector who have collaborated in the implementation of analysis, training, and information aimed at management and field teams at Cerrejón on topics of social engagement and CSR standards and tools. The aim is to adapt the company's ability for social response to meet best international practices.

As part of these review processes, the past two years have seen significant changes in social engagement focus compared to that seen in the TPR field review in 2007. For instance, the Social Engagement Division of the Department for Social Responsibility (DSR) has redefined its community projection strategies in such areas as education and health. They have shifted from an assistance orientation towards the communities to an approach involving strengthening of the State functions and services and ensuring their adequate provision for populations in the company's area of influence. In addition, other company investments in sustainable development affairs have been shifted to the foundations system, which has also redefined its functions and scope of activities in the company's area of influence. There is also greater awareness within personnel in the Department on the need to identify, prevent, mitigate, or compensate for any potential impacts of the operations on the communities in its area of influence. The structuring of a strategic plan for community relations is nearly complete; it is aimed at strengthening the upcoming management reforms revolving around the prevention and management of impacts. This plan, the structuring of which is in the charge of a recognized international specialist in Community Relations for the mining sector. Its initial scope will cover the period of 2010-2014, and its final draft in the first half of 2010 will involve consultations with the communities in the area of influence. Along these same lines, the company is finishing up a baseline study on living conditions, based on its support for surveys from the National Administrative Department of Statistics (DANE, its acronym in Spanish).

Another important change concerning the TPR 2007 observations concerns planning and management processes, which have incorporated professional procedures and tools for project management. With the aid of the Project Management Office, the DRS teams have organized

their planning and management processes on the basis of formats and frameworks of aims and goals that allow more accurate implementation, reporting, and monitoring for either internal or external reports, but especially to facilitate ongoing monitoring and improvement in the quality of the activities and services aimed at the communities.

It is also important to note the creation, in 2009, of the Division of Social Standards and International Engagement, which unit is charged with ensuring internal alignment of strengthening in all company areas and processes based on the implementation of social engagement standards and good practices. A very important function of this division for the alignment and improvement of social engagement is the administration of the company's grievances mechanism, which is presented below in this document.

Another very important advance over the last two years is the clear understanding of the company's senior management on the need for more direct articulation between the new mining expansion projects and the areas charged with leading the corporate social responsibility strategy. This may ensure that future relations with settlements neighbouring the company's operations be based from the start on the best standards and practices in responsibility with communities.

**Notes:**

These changes in liaison approach, procedures, and tools with the neighbouring communities are part of the redefinition of Cerrejón's social engagement, which is still under way. It is a challenge for Cerrejón to continue to implement this new system, attempting to identify opportunities for improvement and topics for which it should respond with a social strategy.

A management approach based on the prevention and management of risks and social impacts requires even greater accuracy in characterizing populations potentially impacted by the company's operations. National surveys provide a general image of the problems in La Guajira and its various populations, but the management of social impacts requires specific studies for given populations within the different areas of direct influence of the company. The social analyses performed as part of the environmental-impact studies require alignment and updating since they were carried out using different methods and at different times. Moreover, they will probably be applied to new populations or one of them will request incorporation due to possible risks or potential impacts. To do so requires additional, updated information for the responsible management of these risk sources and to indicate whether the perceived risks or impacts are real or not.

In the current state of affairs of these risk and social impact analyses, this information is not yet directly linked to the planning and organizational processes of the Social Engagement Division. This scenario raises the possibility that, despite the significant community projects and activities currently under way, the strategies and plans of action of the DRS may not cover the minimum necessary in risk topics and sources that they should in accordance with the company's own environmental-impact studies.

In spite of the significant progress in approach, operational ability, and organization, it is still necessary to review the organizational structure and assigned resources that ensure effective

work on prevention and management of social impacts carried out across all the populations in the area of direct influence of the company's operations. Currently there is considerable coverage for the communities undergoing resettlement and for the indigenous communities in the mining area, but the teams from the DRS and the foundations system still find it difficult to generate the same levels of coverage and service for the tens of settlements widely scattered over zones neighbouring the railway line and the port. Inadequate prevention or attention in these zones may generate significant risks and impacts for these communities and for the company itself.

Finally, social communication strategies and tools for relations between the company and the communities must still be strengthened. Although there is growing professionalism amongst the personnel in social areas as concerns approaches, methods, and management tools, there are still difficulties in effective and more fluid communication that would both ensure information and consultation processes suitable to the needs of local settlements and that would facilitate improvement in levels of knowledge, mutual trust, and community participation in the efforts by the company to prevent impacts on the communities or to promote sustainable development.

## 2.3 RESETTLEMENTS AND TABACO

TPR RECOMMENDATIONS	COMPANY RESPONSES
5 The TPR recommended to Cerrejón that it acknowledge that there might be affairs pending from its previous resettlement efforts that could require planned, comprehensive action in order to provide a definitive solution to the difficulties experienced by the communities involved. They proposed that Cerrejón address the situation of all the Tabaco families regardless of their positions during the 2002 negotiations, and that Cerrejón develop a completely participative consultation process involving all the stakeholders.	Review the general approach to the resettlement topic, developing clear deadlines for consultation with affected communities.  Acknowledge the need for holding talks with the Tabaco Resettlement Committee (CRT, its acronym in Spanish) to discuss the TPR recommendations, including a mediator, and establishing reasonable and clear deadlines for resolving the main topics unresolved with the Tabaco ex-residents, making sure to comply with the TPR's recommendation to execute the outstanding payments as compensation.
6 The TPR pointed out to the company that all those involved should focus on the divided communities so that they may best benefit from the positive impacts of Cerrejón's operations.	The company supported the TPR suggestion of implementing a symbolic reconstruction initiative that would contribute to the identity and strengthening of the Tabaco community. It will work with all the ex-residents of the settlement to determine what actions would be most relevant and valued by the community.  Continue with the process of implementing the Tabaco Network funds and development programmes.

**Progress:**

Based on the TPR recommendations, the company implemented, together with the representatives of the ex-residents of Tabaco, a bargaining process that culminated, in December of 2008, in the signing of an agreement that aims to reach a definitive solution to this dispute, which goes back to 2001. This agreement included not only the payment of compensation, but also laid out the path and responsibilities of the company, the community, and the government for the physical reconstruction of a new Tabaco village.

The company also demonstrated its intentions of going beyond the previous bargaining positions, and it unilaterally extended the benefits of the new agreement to other ex-residents of Tabaco that were not represented in the process of drawing up and signing the document. In the first quarter of 2009, there was an open call to all ex-residents to present their cases. An evaluation mechanism was created, and it culminated in the assignation of complementary compensations to many other families from the Tabaco community.

**Notes:**

The signing of the agreement marked a fundamental change from a relationship involving conflict for many years to one of bargaining and agreement. In just a few months, a new phase of cooperation began between the Tabaco community and the company to seek a solution to the problem. However, this solution is still under construction and the company must be wary of possible social risks in the implementation of the agreements.

The persistent challenges concern the divisions amongst the various sectors inside the old Tabaco community, which makes it difficult for them to agree amongst themselves and with the company regarding the implementation of certain key TPR recommendations such as the building of the new Tabaco village or the implementation of assistance programmes for families to improve their standards of living.

The signing of the agreement was reached during negotiations with one of the community groups, that representing the sector of the old Tabaco population that did not want to abandon the village years ago and that demanded compensation and the construction of a new settlement. However, the implementation of the agreement means the participation of another important sector of ex-residents that did sell their properties years ago and, as a result, were not involved in the conflict, bargaining, and agreement process after the TPR. In addition to the traditional differences amongst different sectors of the old community, the signing of the agreement and the implementation of a review process of all the cases for the compensation to families in all the sectors has generated many viewpoints, expectations of benefits, and differences of opinion concerning the criteria for fairness and equity in the assignment of these compensations.

The process for the physical reconstruction requires a general consensus of all the groups on the location and characteristics of the new Tabaco, but this consensus has been hindered by these expectations and differences, even within the very group that reached the agreement with the company, due to shortcomings in the communications and information processes to all the

Tabaco families about the details and criteria behind the assignment of compensations from the agreement; these shortcomings were pointed out in the report by SCG in April of 2009.

The company has understood these difficulties and we verified in the field that, in the early months of 2010, it began providing assistance to ex-residents of Tabaco in order to promote closer ties with the community families and groups, and to facilitate agreements amongst them in order to proceed with the reconstruction work. However, the company and the various sectors of the community must be able to undertake appropriate talks to identify and clarify the key disagreement points regarding the criteria for implementation of the agreement. Then they must jointly lay out the necessary mechanisms for organization and coordination to successfully meet the commitments for the physical reconstruction and the improvement in the livelihood and standards of living of the Tabaco families.

Another set of challenges to meeting the aim of improving standards of living resides in the difficulties faced by the Tabaco Network for Self-Development after a few years in existence. This strategy for generating projects to support the economic and social sustainability of the Tabaco families began in coordination with a wide sector of the community that did not join in the lawsuits and conflict with the company in previous years. It was organized as a self-managed organization to promote production projects benefitting participating families.

After a few years, many of these projects have prospered and provided many families with adequate progress and livelihoods. However, it is also true that many other projects were not successful due to different factors, not all of which were under the control of the recipient families. In many cases, lack of experience or of appropriate market studies and consulting have not allowed some families to ensure a stable and sufficient source of livelihood, and the lack of a return on these investments affects the sustainability of the collective fund.

It is crucial that the company and the Tabaco community analyse these problems and propose any necessary adjustments to the strategies for improving income and sustainable means of livelihood since the final implementation of the agreement of December 2008 involves extending this type of aid to new families joining the process, and it is necessary to ensure their economic and social sustainability in the framework of the reconstruction and relocation to the new settlement of Tabaco.

TPR RECOMMENDATIONS	COMPANY RESPONSES
7 The TPR recommended to the company that resettlements based on international standards should be implemented not only when physical resettlement is required, but also when a community views itself as impacted by the nearness of the mining operations.	The company acknowledges this recommendation and considers that a community may be resettled when it receives certain indirect impacts from the mining process. This consideration has already been incorporated in Cerrejón's resettlement principles.
8 It specified that Cerrejón should adopt a wider definition of "impacted community" as a basis for its resettlement and good neighbour focus.	
9 Cerrejón should consider past resettlements	The company has accepted this recommendation

as “passive”, and they must be approached with the aim of strengthening the resettlement processes, and it has reviewed its focuses in order to incorporate the TPR recommendations. from a new perspective that emphasizes the need for clear consultation and bargaining practices and strategies.

### **Progress:**

The company’s compliance with the commitment to review their definition of an impacted community can be verified by the formal incorporation of the village of Tamaquito within the resettlement programme starting in 2008. The company shifted from viewing Tamaquito as an external relocation case arranged between the State and the community (since studies showed no appreciable environmental impact) to perceiving that the community would be affected socially and economically by the resettlements of nearby communities (Roche, Patilla, and Chancleta). This widening of the definition of an impacted community determined the active involvement of the company in the Tamaquito relocation process and in directly assisting the community not only in its relocation but also in facilitating their legal recognition as an indigenous reservation.

Important advances have also been made in acknowledging liabilities from old resettlements made before standards and guidelines on the topic. Based on these experiences, the resettlement processes currently under way have been upgraded in terms of the main international standards and good practices presently widely used.

Although the company was already implementing these new resettlements on the basis of international guidelines, after the TPR recommendations it has been verified that the company has formalized a corporate resettlement policy specifically adhering to the guidelines of the International Finance Corporation (IFC) of the World Bank.

From 2008 to the present day, the company has sought consultancy from various specialists and organizations experienced in the implementation of resettlement processes based on international standards, and it has gradually been adjusting various of its strategies and field procedures.

### **Notes:**

After the TPR report and recommendations, the company committed itself to developing timeframes in agreement with the communities for its resettlement processes, as well as developing indicators to measure the current standards of living of the communities to be resettled and identify necessary actions to improve them through the resettlement process.

Despite having made progress in articulating and implementing these resettlement timeframes, making progress towards reaching new community resettlements in 2010 and 2011, there are difficulties concerning levels of agreement between the company and community regarding these timeframes and other aspects of the resettlement processes. We have verified that the company has duly complied with the standards requirements of informing the community on involuntary resettlement through the organization of workshops, talks, visits, and informational

handouts. However, there are still considerable levels of disinformation or problems on the part of the population to adequately understand all the items of information received. Community leaders and inhabitants also have the perception that the company has pre-established the resettlement processes and that they are not informed or consulted with due level of detail in order to consider they have reached a consensus on the timeframes and steps to be taken.

These doubts and mutual lack of understanding increase the uncertainty and fears of the communities concerning the implementation of a process that will fundamentally transform their current and future standards of living. This lack of confidence on the part of the communities and their leaders in the process they are involved in with the company currently threatens to complicate the community cooperation and participation that is essential for the fast, successful culmination of the most advanced resettlements, some of which are already in the construction phase prior to the final relocation of the population. A blockage in the communications and trust necessary to process agreements and joint actions between the company and communities at this critical stage generates huge risks for the communities and for the company itself.

The company must improve the information, participation, and consultation processes to go beyond the minimal compliance with the general requirements of the standards. Mechanisms and skills must be developed to ensure the population has received and fully understood all the information sent out, and that the leaders and inhabitants perceive they are making informed decisions and that their concerns and observations are being taken into account.

Another important challenge concerns the procedures for organizing and reporting information regarding the resettlement processes, particularly with the coordination of the resettlement plans of action. Although we have verified that, for the cases of new resettlements under way, the company has complied to date with all the phases and procedures stipulated in the international standards, the IFC guidelines set out the need to have these plans of action as tools for the orientation, monitoring, and external and internal reporting of progress for each resettlement. However, although the company has included most of the information necessary to document the resettlements in different reports, to date these instruments have not been standardized.\*\*\* To do so could serve to strengthen mutual acknowledgement of progress and basic agreements required to successfully conclude the resettlements for the interests and needs of both the communities and of the company. Currently, following the direct recommendations of the TPR, the company has requested the international consultant Social Capital Group to draw up an analysis that includes consultation with the communities and their leaders on necessary adjustments to their resettlement processes, including assistance for systematizing the plans of action for all the processes under way.

## 2.4 CERREJÓN FOUNDATIONS SYSTEM

	TPR RECOMMENDATIONS	COMPANY RESPONSES
10	The TPR recommended that the company explore means of reinforcing its role and capabilities of contributing to the sustainable and fair socio-economic development of La Guajira.	The company has acknowledged the merit of the suggestion and has begun a process of strengthening its social-responsibility actions in order to provide long-term benefits to the communities and inhabitants of La Guajira.

- 11 The TPR recommended that the strategic goals and specific activities of each foundation take place by means of an extensive, participative consultation process with the relevant stakeholders, disseminating and publishing these guidelines in order to provide a clear idea of the aim and scope of the foundations system. Cerrejón shall work with the stakeholders to design the goals and activities of each foundation. Annual progress in these matters shall be reported to the public through Cerrejón's Sustainability Report.
- 12 The TPR pointed out the need for the foundations' independence to be underlined and made explicit in order for them to be recognized as organizations that are suitably informed and led by personnel with sufficient experience and independence to achieve their goals. Cerrejón acknowledges that good management of the foundations guarantees their success in the long term, and the TPR recommendations on the subject shall orient their focus. The best efforts have been made to select top executive directors to lead the foundations, basing the choices on their experience, knowledge, and management capacities. Efforts will be made to provide each foundation with top directors.

**Progress:**

During the 2007 TPR field review, we observed that the company was reformulating their management strategy of development topics through the foundations. Therefore, the final TPR report included recommendations on the subject concerning ensuring that the interests and needs of local stakeholders be taken into account, as well as ensuring the adequate impact of the company's social investment on the sustainable development of the communities of La Guajira.

In February of 2008, the company reorganized the old Cerrejón Foundation and set up a foundations system specializing in four key topics identified as being strategic for the sustainable development of La Guajira (water, indigenous communities, royalty usage, business capabilities) based on an internal analysis on Cerrejón's role in regional development. In compliance with the panel's recommendations and the company's strategy, these foundations were also provided with acknowledged experts for their professional boards.

In the first two years of operation, the leadership and teams of the foundations have managed to develop specialized capabilities that the old Cerrejón Foundation had not accomplished in its many years of existence. They have implemented pilot projects and baseline studies in cooperation with and complementing other public and private agencies, and positioning themselves as technical leaders in the eyes of other institutions, beneficiaries, and stakeholders.

**Notes:**

The foundations system, like any initiative in its early years, still faces important challenges to consolidate itself as a key instrument in the new strategy of Cerrejón's social responsibility in La Guajira.

One of the main challenges over the coming months and years concerns the reinforcement of their involvement and consultation with regional actors. In their first years, the foundations have

met their objective of generating strategies, plans, and programmes incorporating the participation and viewpoints of their various publics and beneficiaries.

However, in some cases this work has been restricted by the extent of the region and the scattered populations targeted in the goals of each foundation. Due to the regional scope of the foundations system, the brief period the system has been in existence has not yet allowed it to reach every single locality, settlement, and stakeholder it hopes to. Therefore, some of these groups have as yet no clear view of the aims and potential of the work and initiatives of each foundation.

In any case, in accordance with the TPR recommendations for the foundations system, in those localities and fields in which activities or projects are already effectively operating, the leaders and representatives of stakeholders acknowledge and very positively evaluate the fact that they are suitably consulted and involved in the design and implementation of the foundations' programmes.

Another important challenge lies in achieving an appropriate equilibrium and synergy between the company's relations concerning the neighbouring communities in its closest area of influence, and Cerrejón's processes and contributions in the wider context of regional development. It is important that the company describe ever better its community relations over the short term and its contribution capabilities to development over the long term. To do so will strengthen the role of the foundations as a significant resource for the sustainable development of La Guajira.

Finally, it is crucial to continue promoting the foundations as entities with autonomous capabilities for creating alliances and leveraging resources for regional development. Since the initial creation of the foundations system, the company proposed that they would gradually acquire greater financial autonomy in order to ensure the sustainability of their aims in the middle and long term. In addition, this autonomy is meant to promote the creation of alliances and work in coordination with other national and international agencies interested in the sustainable development of La Guajira.

The foundations have achieved significant goals along these lines, creating programmes and projects shared with other public and private organizations that have allowed them to attract considerable investment in order to address key problems in the region. However, despite having obtained resources for implementing important programmes and projects, there have also been difficulties in developing complementary support sources for maintaining the basic administrative and logistical functions of the foundations, due to which they still count on the financial support of the company. In recent months, the boards of the foundations and Cerrejón have committed to attaining goals that foster more balanced economic participation by the company and other complementary financial sources for the sustainable operations of their activities promoting regional development.

## 2.5 INVOLVEMENT WITH CIVIL SOCIETY

TPR RECOMMENDATIONS	COMPANY RESPONSES
13 Cerrejón must increase its efforts to encourage and involve civil society organizations, Colombian and international development agencies, as well as the assistance of international governments and institutions.	Cerrejón is in agreement with this recommendation by the panel, and it intends to organize a forum for regional development to which will be invited additional actors from civil society and representatives from the government and from other businesses in order to undertake joint strategy-development works and plans of action.

### Progress

We have verified that the company has complied with the commitment to sponsor discussions with multiple public and private groups on strategic topics for regional development. It has also shown active concern for promoting an approach on strategic alliances in different operational areas.

At the end of 2009, the forum Building Future: Views on the sustainable development of La Guajira. This forum grew out of a commitment by the company due to the TPR report, and it was organized through a process involving other public and private groups that organized all aspects jointly with the company. Various of these external groups have stated they were impressed by the fact that Cerrejón invited them to participate in the organization and leading of the event rather than simply to participate in an event solely coordinated by the company. Various of the company's internal actors feel it was a new, valuable experience as regards the creation of new allies and plans of action that had not been previously taken into account.

Out of this forum grew the initiative for certain tasks such as Cerrejón's support for the departmental government and for the national government in holding meetings with donors in order to coordinate the supply and demand of resources for local development. They have drawn up cooperation agreements and work alliances with municipal and national government institutions. There is significant work involving international cooperation in consulting and financing for specific topics such as basic sanitation, water supply, transparency, and anti-corruption that has already begun to bear fruit in terms of development projects coordinated with the foundations system.

### Notes:

The date of the forum was postponed several times, in part due to a lack of initial clarity on the goals and on the best tools and methods to involve other actors in the process. It is going to be important for the company to systematize the lessons learned from its experience here so as not to lose the skills it had to develop to bring this initiative off.

We also note that, despite the intention of strengthening a general approach of strategic involvement and alliances, there are as yet no formal procedures for coordination and monitoring of the institutional alliances reached for the different projects and activities in each

area of the company. At the moment, for instance, there are lists of potential or effective allies reported by officials from different areas in response to a request from the Division of Social Standards and Liaison, but there are as yet no procedures and responsibilities established to help transform these types of strategies into an ongoing practice.

## 2.6 THE WAYUU — CULTURE AND EMPLOYMENT

TPR RECOMMENDATIONS	COMPANY RESPONSES
<p>14 The TPR recommended that the company's social responsibility practices focus on the fact that the Wayuu have benefitted least from the company's presence even though they are the most vulnerable and most affected segment of the local population.</p>	<p>Cerrejón acknowledges that the Wayuu are a particularly vulnerable sector of the population and that, to date, they have not benefitted to the same extent as other groups. It also agrees on the need for this group to be the focal point of the company's social responsibility practices. To this end, the Indigenous and Progress foundations will develop a special programme of education and training, building on current efforts and designing projects based on consultations with the Wayuu communities, the government, the NGOs, and other development agencies operating in the region. This programme shall be presented and discussed in the regional forum organized by Cerrejón.</p>
<p>15 The TPR recommended that Cerrejón develop a clear strategy and indicators for measuring results.</p>	<p>Cerrejón is currently committed to having at least 20 % of its new workforce deriving from the neighbouring communities and indigenous settlements. The plans will be clearly detailed and progress reported in the company's sustainability report.</p>
<p>16 The TPR specified that the training of future local employees should be complemented with parallel support for business development to allow local companies to comply with the standards demanded by Cerrejón in the delivery of certain products and services.</p>	<p>In 2008, the foundations signed an agreement with the National Training Service (SENA, its acronym in Spanish) for the training of 1,000 Wayuu youth in various business capacities, and the progress made will be reported in Cerrejón's Sustainability Report.</p>

### Progress:

Based on the TPR recommendations, the company has acknowledged that the Wayuu population is one of the sectors of La Guajira with the lowest participation in the benefits arising from the region's economic and social development.

The company set the goals of heading socio-economic development activities through its foundations and its social engagement programmes in order to build up the Wayuu capabilities to improve their income and standard of living through their own interests and activities.

In 2008 and 2009, the Foundation Indigenous Guajira has led a support programme for the coordination of the Life Project in Wayuu communities with the aim of linking them to municipal

and provincial development plans. It has promoted assistance projects for the improvement of food safety through training, technical assistance, and supplies of seed and equipment for the improvement of local crops.

In alliance with the SENA, the foundations system has supported, since 2008, the implementation of the programme Colombia Connect with the aim of training 1,000 Wayuu youth in business skills. Programme reports indicate this number is likely to be reached in the first half of 2010.

The company and its foundations, together with Wayuu communities and leaders, have identified the main topics of interest for work training with the goal of evaluating the possibilities for training and hiring Wayuu workers at the company or in other opportunities for technical training and employment.

**Notes:**

Interviews with Wayuu leaders, particularly in the south zone near the mine, confirm they have been involved in the processes of consultation and selection of candidates for these technical training processes. However, they are also aware that these training processes do not benefit all of those who wish to work at the company or elsewhere, and there are many communities, especially in the zones of the railway line and the port, that are not yet involved in these processes.

At the start of 2009, the company recognized the difficulties in evaluating its performance with its goal of having Wayuu workers comprise 20 % of the total workforce in new annual hiring. This is due both to the low levels of basic education in the indigenous population and to the lack of means of recording workers of Wayuu origin already employed by the company. In the past year, with the support of analysis groups including the participation of Wayuu employees, improvements have been made to the registration systems, which has served to identify, for instance, a quota of 34 % of Wayuu workers hired in new contracts over the last year.

However, both company officials and Wayuu leaders believe these numbers are still insufficient since they do not reflect the fact that many of the Wayuu who work for the company are people who have had more access to educational opportunities in the closest cities or communities. In contrast, most Wayuu in the rural zones, and particularly in the railway and port communities, do not yet have the same level of access to the company's selection and/or training.

Based on the company's consultations with its Wayuu workers, and on the testimony of community leaders in the railway and port zones, a means of providing better opportunities for improving income and standards of living lies in strengthening the economic activities and skills of the Wayuu communities. The production and marketing of handicrafts, in which the company already has experience, or the improvement of production and marketing chains associated with traditional fisheries may be areas for intervention.

TPR RECOMMENDATIONS	COMPANY RESPONSES
17 The TPR recommended that the company work with the Wayuu clans in organizing ceremonies to recognize the cemeteries along the length of the railway line and, in cooperation with the appropriate public authorities, explore the option of renaming the road as the “Wayuu commemorative road”.	Plans will be developed for recognizing the cemeteries and changing the name of the motorway in 2008, involving traditional authorities from the Wayuu communities and ensuring that any action has the full support of the local communities.

**Progress:**

The Wayuu leaders and community members consulted acknowledge that the company has made an effort to improve relations with their culture in recent years, providing financial support and a company presence at traditional Wayuu celebrations and events. The company reports, in turn, that they have taken steps to protect local cultural heritage by such means as studies on improving traditional rights of way for persons living in the vicinity of the railway. These studies are meant to lead to the building of pedestrian paths to decrease the disturbances and risks caused by the division of their territory by the railway line.

In addition, several areas sacred to various of the indigenous peoples in La Guajira have been identified, and commitments have been made to ensure their protection and use by several of these groups. The company reports that, in cases of sacred sites currently located on private properties, they are evaluating the possibility of purchasing the sites to ensure their protection.

**Notes:**

Nevertheless, despite visible actions promoting and protecting elements of the local indigenous culture, Wayuu leaders and community members feel that, although these are important gestures, they are insufficient given that the company disregards other aspects of their relations with the indigenous population that, in some cases, seriously offend the Wayuu due to a perceived lack of respect for their culture.

They often mention cases involving livestock accidents on the railway and even the more serious cases of fatal accidents of Wayuu members. According to their view, the refusal of the company to reimburse for damages due to the death of goats, or the means by which the company responds to human accidents, are not in accordance with the criteria by which the Wayuu perceive their rights and impacts on them.

An example of this type of conflicts between culturally diverse notions of rights and redressal concerns the cases of accidental death of a Wayuu worker for a security contractor on the railway. In accordance with current criteria and jurisprudence followed in work contracts, compensation and insurance payments go to surviving direct family, wife or children and the company or its contractors in compliance with their legal and moral obligations.

However, in Wayuu culture and jurisprudence, it is a damage that affects the deceased’s maternal line and not the wife’s family, and it is the maternal uncles of the deceased who

demand the right to compensation. There have been cases in which the maternal family of a deceased employee has sent a Wayuu spokesperson (*palabrero*) to the company expecting a bargaining process for compensation. The refusal to do so by the company, which holds it has legally and morally fulfilled its obligation with the direct relatives, offends not only the maternal family's sense of damage, but also the very institution of "sending a speaker" by means of which the request is sent.

Although this type of conflict has no simple solution, the company and the indigenous communities should be able to reach some basic agreements on the cultural standards by which they will deal with their differences in order to provide a complete, satisfactory response to the widely held Wayuu view that the company, like other non-Wayuu institutions, does not show due respect for their culture.

TPR RECOMMENDATIONS	COMPANY RESPONSES
18 The TPR recommended that Cerrejón's management of social impacts should consider it a priority to attempt to regroup the Media Luna community at least socially if it is physically impossible to regroup it.	The TPR suggestion is supported by the company, but it will only be possible with the full consent and participation of the Wayuu clans involved. Cerrejón shall promote a suitable atmosphere for internal discussions with the indigenous community in order to determine their desires, define the areas in which the company can support the community in achieving its goals, and address its socio-economic concerns.

**Progress:**

In its commitments, the company considers that the physical and social integration of the Media Luna community is a topic that depends primarily on the determination and will of that population, traditionally organized by a basically fragmented management of territories and families.

In any case, the company acknowledges the need to assist these families in achieving standards of living and quality of services that will allow them to earn a livelihood and develop in the area in accordance with their own cultural patterns of coexistence. Concretely, the company has focussed its attention on topics related to housing, access to water, health, and nutrition.

In 2009, after a few delays that the company reported as deriving from complications with contractors, construction finished on a health and nutritional recovery centre for the communities in the Media Luna zone. It has been verified that this centre is in operation with the participation of the municipality of Uribia, which provides the specialists and supplies for the care, and with the complementary logistical support provided by the company to facilitate the transportation of the specialists or of people from the locality.

We also verified the support that the company provides local communities for water supply through a water tanker truck purchased by the communities through the royalty resources corresponding to them. The company provides support with fuel and supplying the water, and

the communities provide the vehicle, which has had occasional repairs for which the company has provided support in order to maintain the local distribution of water.

Between the end of 2009 and early 2010, the company decided to bolster its community service point at the port. It has assigned new personnel and financial resources to implement long-awaited social programmes such as housing improvement in Media Luna.

**Notes:**

Despite the importance of the greater emphasis the company wishes to give the focus on the Media Luna communities by assigning them a larger budget than other years, it is crucial that these measures be implemented on the basis of an adequate analysis of the social risks and impacts of the port operation on local settlements. Social liabilities remaining from the start of operations in the zone must also be identified.

The communities in this zone were seriously affected starting decades ago when the Colombian State established an industrial reserve in the middle of territories in use by various families of local fishermen and herders. These people lost their access to resources on land and in the sea, and had their traditional hunting grounds reduced. From the viewpoint of social impacts and risks, any assistance strategy for these communities must clearly distinguish how much of what is done is solidarity support by the company and how much should be considered as mitigation or redress for impacts generated by port operations on these settlements, consequently comprising part of the company's direct social responsibility and consisting of a legitimate and addressable expectation on the part of the local communities.

The current social engagement of the company, and particularly in the Media Luna zone, is not necessarily based on this identification of potential impacts, and therefore it runs the risk of losing sight of certain management activities required to respond to the expectations, perceptions, and needs of the local communities. It is also essential to have accurate baseline studies to better identify more efficient investment opportunities of the new resources available for a proper prevention and handling of social impacts and risks caused by the operation.

## 2.7 ROYALTIES

TPR RECOMMENDATIONS	COMPANY RESPONSES
The TPR recommended that Cerrejón explore ways of more widely distributing information on royalties in order to raise awareness and an active discussion amongst the population, encouraging the strengthening of organizations capable of keeping commitments to civil society, interest in royalty administration, and monitoring and demanding the local government provide accounts of their use.	The company shall seek the best way to widely announce all payments made to the government, including the use of the local press. This information shall be provided in meetings with the community and with other stakeholders. In addition, the Sustainability Report shall be used as another means of presenting information. Meetings are also foreseen with corresponding agencies of the Colombian government to ensure the company's backing for the Extractive Industries Transparency Initiative (EITI).

**Progress:**

The company has verifiably met its commitments to foster awareness meetings and increase the publication of information on the Extractive Industries Transparency Initiative (EITI). The company promoted meetings and discussions with representatives from the government and the mining industry at the end of 2008. In February of 2009, it published a Colombian case study for a publication of the Initiative aimed at the mining sector.

It has also complied with widespread public diffusion of its royalty payments. Through the Foundation for Institutional Strengthening, in 2009 it began training and promotion for spreading information on the topic aimed at journalists and local media. Faced with generalized resistance on the part of local media to publishing royalty payments, the foundation publishes them on the Internet in monthly reports.

At the end of 2009, the Foundation for Institutional Strengthening organized the first Departmental Forum on Royalties and Development. At this forum, the company President presented a report at a public event that not only highlighted the totals paid in royalties in recent years, but also analysed the inefficient use of them in the provision of public goods and services to the region. He concluded by directly stating that corruption was responsible for the limited impact of these resources in overcoming conditions of poverty and shortages in the region.

It is worth noting the impact this information had in local political debates over the following weeks, raising public awareness regionally on the urgency of more transparent and effective use of the wealth contributed by extractive activities in La Guajira.

The Departmental Forum on Royalties and Development will take place yearly for the foreseeable future. The second forum is slated for October of 2010.

In addition, the Foundation for Institutional Strengthening, in conjunction with public and private programmes for the fight against corruption, began in 2008 a programme for oversight activities of resources from royalty payments. This involves the organization of forums, training, support for local oversight systems, and public transparency reports during the construction of works made possible with these resources. Various of these events were verified in the field, and discussions were held with local authorities and social leaders involved, who positively rated Cerrejón's efforts to ensure the proper use of its royalty payments.

**Notes:**

Although on balance the company's efforts are viewed as positive, there are still local factors resisting transparency processes on the proper use of royalties. Both the company's efforts and those of certain national programmes for the prevention of corruption have come up against the fragility of citizen oversight processes in an extremely permissive cultural and political context. But it is important for there to be an ongoing investment by the company, and by other public and private organisms, to foster ever more sustainable processes.

One drawback of this effort, for instance, concerns the lack of awareness on the part of large sectors of the population, particularly the more marginalized groups, about the potential benefits

of these transparency processes. One example is the case of the Wayuu settlements, particularly in the area of the railway and the port. Due to their highly fragmented social and territorial organization and their limited institutional capacities, they cannot effectively monitor the local governments' management of the State royalties and transfers corresponding to the indigenous communities.

Leaders from Media Luna state they have no direct knowledge of the processes fostered by the Foundation for Institutional Strengthening. Although they acknowledge they have been invited to some workshops in the cities, they state that they have not always been able to participate due to limitations in transportation or to linguistic and cultural barriers. However, they coincide in affirming they would welcome an approach by the Foundation and the company to train and aid their communities, in Wayuunaiki, for better monitoring and management of the municipal resources corresponding to them. It is important that the Indigenous and Institutional Strengthening foundations evaluate jointly with the communities the extension of their activities promoting transparency in order to involve these highly marginalized settlements.

## 2.8 SECURITY AND VOLUNTARY PRINCIPLES ON SECURITY AND HUMAN RIGHTS

	TPR RECOMMENDATIONS	COMPANY RESPONSES
20	The TPR recommended that all reports of aggressiveness by Cerrejón security personnel be rigorously investigated to prevent relations between the company and the neighbouring communities from being affected. Cerrejón must establish a process for handling complaints related to security and design a systematic mechanism for hearing community concerns.	Cerrejón agrees on the importance of rigorous investigation of every allegation of aggressiveness by their security forces, and that any necessary redressal occur if the reports are substantiated. The company claims this has always been their practice, but it acknowledges the importance of establishing transparent and systematic mechanisms for handling complaints and discussing security topics with local communities. Cerrejón proposes exploring the TPR recommendations as part of its general programme of consultation with the inhabitants.
21	The TPR indicated that Cerrejón should take advantage of the processes under way in Colombia to develop clear indicators for the implementation of the Voluntary Principles in order to acquire the means to log, monitor, and address any presumed violation. Cerrejón should also evaluate its training programme in Human Rights.	The company shall develop indicators on the performance of the training programme in Human Rights, and the results shall be reported in the Sustainability Report. In addition, the company is taking on the challenge of developing a system that is easily accessible by Internet so that stakeholders and the general public can monitor their progress in this area.

### Progress:

Based on the TPR recommendations, the company began efforts to unify the different mechanisms for logging and processing complaints and grievances that existed in more than one area of the company, but were isolated and lacked suitable procedures or application forms for the effective handling and resolution of cases.

After an internal process of discussion and review of previous experience, in 2009 a new, integrated system was designed for handling these topics at the companywide level. This system has established functions, roles, and officials, as well as instances for making decisions on cases to be dealt with. The system has been set up with a computer platform and telephone numbers. Currently, it is in a pilot phase consisting in the processing and monitoring of some thirty diverse cases that are revealing any drawbacks in its practical implementation. Once the pilot phase has ended, use is intended to spread to the various internal and external stakeholders of the company.

There has also been progress in the identification of indicators for monitoring the Voluntary Principles on Security and Human Rights. Currently, the indicator framework is in the final verification phase by specialized consultants, and in 2010 it is hoped it will be the basis for training and monitoring in Human Rights topics associated with the company's operations.

**Notes:**

Based on available information on the pilot phase, there are difficulties related to the most appropriate levels for decision-making and resolution for cases with different degrees of complexity and importance. They are also identifying a clearer framework for determining topics for which the system should be used from the perspective of exclusively handling potential impacts of the operation on its environment.

Several of the cases in the pilot programme are topics for which the company has lacked definitive answers for a long time. They demonstrate that the relevance and usefulness of the grievances mechanism will ultimately depend on the company's ability and determination to make timely, appropriate decisions on certain key topics of social impact.

## 2.9 HEALTH AND ENVIRONMENT MATTERS

	TPR RECOMMENDATIONS	COMPANY RESPONSES
22	The TPR recommended that Cerrejón pay due attention to reports by the union and local communities regarding the incidence of illnesses caused by dust.	Cerrejón agrees with the TPR that third-party verification of the company's environmental-monitoring results is vital in order to create confidence in its programmes. To do so, it proposes working together with the union and local communities to identify the best means to reinforce the environmental-monitoring programmes.
23	Cerrejón should form associations with universities in order to guarantee that its emissions monitoring is effective, credible, and transparent.	This suggestion forms part of the verification process for monitoring results for air quality by third parties. The company proposes, at a minimum, to include a review by third parties in its Sustainability Report and to implement these procedures within a year's time.

**Progress:**

Although the company already had its own air-quality monitoring system in place in its areas of influence, the TPR recommendations led it, in October of 2008, to begin oversight of air quality with the participation of inhabitants from communities neighbouring Puerto Bolívar and the mine and of public institutions and universities. The results of this audit were presented to community representatives, to members of the Workers committee on health and safety vigilance, and to representatives from the Barrancas Hospital. In the following months, there were nine presentations, and a communications committee was created in the communities to identify ways of effectively transmitting the information to the population.

Visits to the mine have also been verified, aimed at leaders and families from settlements neighbouring the operations. Between 2008 and 2009, there were over 40 visits.

**Notes:**

Despite the work on information, training, and participation promoted by the company, many of the community representatives still voice doubts and fears concerning the results presented. Although they have understood and participated in the processes of measuring and collecting samples, they ask themselves whether the post-processing of the samples may be manipulated in ways that are difficult for them to perceive.

They also report it is problematical to transmit all this information to their communities when they do not feel they have a full understanding of the technical details necessary in order to offer assurances to the people and settlements.

The lack of specific studies on the incidence or lack of illnesses or impacts on health as a direct consequence of some type of impact on air quality does not facilitate any evasion of responsibilities on this topic by the company, particularly regarding its discussions with the union about its allegations of health impacts.

It is necessary to develop a social strategy aimed at developing trust in the results to go hand-in-hand with the technical process of participative monitoring. An important factor in this strategy will be the strengthening of the technical skills of the community representatives and workers to interpret the processes and results of the measurements and analyses. In addition, the company should foster effective communications of the person with the settlement, ensuring that most of the settlements and families in the communities can understand the significance and implications of these results.

## 2.10 IMPROVEMENTS IN THE INDUSTRY STANDARDS

TPR RECOMMENDATIONS	COMPANY RESPONSES
24 The TPR acknowledged the importance of Cerrejón's role in improving industry standards in Colombia. It therefore recommended that the company ensure that all the relevant actors, both national and international, have a clear understanding of the achievements sought in this regard, and of the performance and achievements in the process.	Cerrejón will join forces with the government, industry unions, and small and medium-sized businesses (PYMES, the acronym in Spanish) to organize a workshop to discuss and share best practices and standards and regulations applicable to the areas of main concern.

### Progress:

The company reports having modified their initial goal of organizing a workshop on international mining standards aimed at businesses, the government, and the general public since the last two years have seen growing interest by other institutions in fostering related topics, and Cerrejón opted to support and participate in these other initiatives.

It has been verified that Cerrejón's presentations in at least ten conferences and forums were attended by officials, managers, and even the President himself, and they highlighted the need to promote concepts and practices in responsible mining based on the application of international standards. Specifically, these presentations tend to reinforce the notion that the Colombian mining sector is far behind energy-sector companies in developing regulation frameworks and improved standards, and that it is necessary to close that gap.

In its position as a leading mining company in Colombia, Cerrejón participates in sectorial trade union organizations and supports initiatives such as, for instance, better communicating to the population the social-responsibility aspects of the companies.

### Notes:

In addition to their tasks in disseminating information and debate on the importance of responsible mining based on standards, Cerrejón and its potential institutional allies should evaluate the possibility of undertaking activities aimed at facilitating the adaptation and application of these standards and good practices at the operations of Cerrejón and of other companies. To do so, Cerrejón has begun a support strategy for initiatives aimed at identifying and reviewing social engagement practices at companies in the Colombian mining sector, although results will depend on the receptiveness of companies and unions.

Finally, Cerrejón can exert a strong influence on effective improvement in the application of social standards in other companies through the systematization and exchange of their own experiences in implementation in recent years.