

RESPONSE TO THE INDEPENDENT PANEL'S ASSESSMENT OF CERREJÓN'S SOCIAL ENGAGEMENT PRACTICES

Bogotá, Colombia. April 2008

I. Introduction

In August 2007, Cerrejón and its shareholders invited four independent external experts to evaluate the Company's social responsibility programs, both past and present. The Panel's terms of reference specifically included the consideration of the mine's long term social impact and outstanding issues of concern.

The Panel was made up of four internationally recognised experts in the area of social development and was chaired by Dr. John Harker, President of the University of Cape Breton in Canada. It worked from September 2007 to February 2008. It also included: Salomón Kalmanovitz, Dean of Economic and Administrative Sciences at Jorge Tadeo Lozano University, and former member of the Board of Governors of the Banco de la República (Central Bank) of Colombia; Elena Serrano, of Casa de La Paz Foundation, a non-governmental organization with headquarters in Chile which promotes peace, social development, and environmental awareness; and Nick Killick of International Alert, a non-governmental organization based in the United Kingdom, dedicated to building peace in developing countries. To support their work, the Panel retained the services of an expert consultancy. The Social Capital Group, a consulting firm with offices in Perú and the United States, was chosen by the Panel to undertake detailed field work and assist in the development of their findings and recommendations.

Cerrejón management and its shareholders believe that the Independent Panel's final report¹ provides valuable insights into the resolution of a number of legacy issues and a sound guide to the future development of the company's environmental and social programs. Cerrejón is committed to implementing the Panel's recommendations, in consultation with its key stakeholders, to ensure a fair and lasting resolution of outstanding issues and a further enhancement of the company's social programs going forward.

This response provides a general description of Cerrejón's Social Responsibility Policy, an overview of the Panel's observations and recommendations and a description of the actions which Cerrejón is committed to take in response. In some instances these actions will build on existing programs and in others they will be new initiatives. Some actions will also require the engagement and support of third parties. Appendix 1 presents a summary of all the Panel's recommendations and Cerrejón's response.

II. Cerrejón's Social Responsibility Policy

In the area of social responsibility, Cerrejón always strives to achieve the best possible outcomes, rather than merely adhering to legal limits or minimum industry standards. Where local standards are lower than international standards, we seek to adhere to international standards in our activities. We strive to incorporate "best practices" and to measure ourselves against world-class companies. We do, however, recognize that there are legacy issues from past practices and some unintended consequences of the

¹ The complete, unabridged, Final Report of Expert Panel can be found at: www.cerrejoncoal.com

mine's development that must be addressed if we are to fully achieve our social objectives.

Coal mining in Colombia, specifically in the Guajira region, has been an important social and economic catalyst. Throughout its more than twenty-five-year experience, Cerrejón has introduced significant change, most of which is positive. While we believe that the net balance is overwhelmingly favourable, some stakeholders have not benefited as they should. Where this has been the case this will be addressed. Cerrejón aspires to be a good partner for its workforce and their families, for its neighbours, for the region, for Colombia, and for all of those communities that benefit from the energy we generate.

Roads, electrical grids, and ancillary infrastructure are now present in the region as a direct result of coal extraction. A formal work ethos has been instilled; tens of thousands of permanent, well-remunerated jobs have been created. Although some provincial government institutions may still be weak, at least they are now present.

Cerrejón's current Social Responsibility Policy focuses on the following six critical issues:

- An overriding commitment to the safety and health of our employees and contractors.
- Respect for our workforce and our commitment to freedom of association and to maintaining a good and constructive relationship with the Union.
- Our pledge to our neighboring communities to work in partnership for mutual benefits so that the mine contributes to improved living standards and life chances
- Minimization of any possible adverse impacts on the environment and rehabilitation where such impacts cannot be avoided.
- Promotion of conduct that upholds and strengthens respect for human rights, and
- Promotion of greater transparency around the payment, distribution and uses of the tax and royalty wealth generated by coal mining.

As an independent operation, having three world-class shareholders, Cerrejón benefits from leading practices and global vision. Our industrial health program has been certified by OSHAS standards. We have embraced the Voluntary Principles on Security and Human Rights, and our implementation program has received global recognition. We aim to follow social engagement models such as Anglo American's Socio-Economic Assessment Toolbox (SEAT) and the Extractive Industry Transparency Initiative (EITI). All of these efforts are monitored by the company regularly and published in our annual sustainability report, which follows the Global Reporting Initiative (GRI) parameters. Cerrejón has also adhered to the Global Compact since 2005 and prepared an annual Communication of Progress report.

III. CERREJÓN'S RESPONSE AND COMMITMENTS

This section addresses the recommendations made in the Final Report of the Independent Panel. Our initial review has identified eleven (11) main issues and twenty four (24) specific action items within the report. Cerrejón has organized these topics and our responses and commitments as follows:

1. Matters relevant to Cerrejón's overall corporate culture
2. Comments on Cerrejón's social-engagement practices
3. Resettlements: current policies and legacy issues, particularly in the case of Tabaco
4. The Foundation System
 - 4.1 Engagement with Civil Society
 - 4.2 The Wayuu people – culture and employment
 - 4.3 Royalties
5. Security and the Voluntary Principles on Security and Human Rights
6. Environmental and health issues
7. Promoting the improvement of industry standards
8. Conclusions

1. Cerrejón's Corporate Culture

The Panel encourages Cerrejón to develop its own corporate character and initiate formal training to advance this objective. We fully embrace this recommendation, and while we believe that we are moving in that direction, we acknowledge that much more can be done. The shareholders also note the Panel's recommendation that they should continue to provide oversight, and where necessary support to the CEO in advancing the transformative efforts. Cerrejón's culture today results from a number of distinct influences that have been brought to bear since its inception including from Exxon, the Colombian Government, and local and international mining operations. While these entities have instilled many positive practices, mistakes have also been made and legacies remain. We are striving to learn from the past in order to consolidate a culture of our own and recognize that legacy issues must be addressed as part of this process.

In order to contribute to this process, Cerrejón has reorganized the areas responsible for engaging with external stakeholders. Consequently, asset-protection functions, communication activities, corporate and government affairs, and social-engagement functions (including the Foundation system) are now amalgamated under a Vice-Presidency. In addition the resources and focus devoted to these issues is being significantly increased.

A new management team has been assembled to address and improve all of these issues. Social impacts are being gauged objectively using measurable indicators of our progress towards achieving our goals, in conjunction with the previously mentioned GRI methodology and current international standards. Our annual sustainability report describes our goals, activities and actions, and as recommended by the Panel, it will be used to communicate our progress in advancing the Cerrejón culture.

As a socially responsible mining company, one of the core values being stressed and closely monitored is the implementation of policies and actions geared towards the long-term sustainable development of the people of La Guajira. To improve the quality of our work, we will further develop alliances with local and international NGOs to help us enhance the training of those employees who have responsibility for the implementation of social actions. Outside consultants will continue to be used to

support our activities in this area as appropriate. Building on existing programs, training will be provided to help transform the operating culture of the company.

Cross-Cultural Awareness Training

The mine is located in a region with a significant indigenous population: the Wayuu.. Approximately 40 per cent of the region's 655,953 inhabitants are Wayuu. For this reason it is important to educate each one of our employees about this culture, so that they can understand and respect its history and traditions. For this purpose, we have engaged in cross-cultural awareness training. Training includes geographic location, resources, limitations, relationship with nature, language, ethnic and cultural identity, rituals, traditions, economy, and origins of the Wayuu. This promotes and fosters the understanding and respect of this community that shares territory with Cerrejón.

Cerrejón is committed to working towards an operational culture that gives priority to the way we interact with our stakeholders and one that instills in our operation cultural values and respect for all with whom the company interacts. We will develop a clear statement of our culture and values and, as recommended by the Panel, develop a training program to ensure all management and employees understand and live these values in their day to day work and decision making. We will use our Sustainability Report to communicate our progress on this important area.

2. Social Management

The Panel recommends that Cerrejón "retool" its social-engagement practices such that it is set up for excellence in social management in the same way that it is equipped for excellence in production. While efforts are already underway to address this, we will redouble our efforts to engage our stakeholders and actively seek their feedback in order to make improvements where necessary. Genuine engagement and transparency will be the cornerstone of the company's new approach.

This approach will be based on international standards and formal engagement programs have been established to improve and streamline the achievement of shared social-development goals. The program will be developed in consultation with our key stakeholders to ensure that engagement opportunities and information are appropriate to their needs. A fundamental objective of the program will be to ensure that local communities are fully informed of and have the opportunity to participate in decisions that may affect them.

3. Resettlements

Resettlements are understandably a very sensitive issue for all affected communities. We believe that resettlements should be treated as a development opportunity and that the disruption which they cause in other people's lives lays a significant responsibility upon us to proceed with full regard to best practice. We recognize that resettlements have been an issue of concern in relation to both former and current programs. We greatly appreciate the Panel's attention to this matter and value their recommendations.

Cerrejón agrees with the Panel's recommendation that an approach that emphasizes clear consultation and negotiation within agreed timeframes will enhance trust between the company and the communities. It is also agreed that the continued promotion of

collective as opposed to individual re-settlement is most likely to achieve the best long term outcomes. Furthermore, we commit to uphold the Panel's recommendation that resettlement should also be offered whenever the indirect or cumulative impacts of mining create significant constraints on a community's ability to sustain itself. We also recognize the importance of post-resettlement planning and ongoing monitoring of the condition of resettled communities as set out in the relevant IFC Performance Standard.

The company has designed a comprehensive resettlement policy, based on international standards, with the support of external institutions. In addition, organizational changes have been made to incorporate resettlement as a specific functional area in which progress is measured regularly by corporate performance-indicators. While we recognise that legacies remain from past practices, we are pleased that the Panel concluded that there was no evidence of any attempt to minimise compensation or to force people from their land by adopting a policy of community "strangulation." We would, indeed, condemn any such approach as incompatible with our values.

Our overall approach, as outlined below, has been reviewed and revised to take into account the Panel's recommendations.

- All procedures shall be subject to international standards and to legal mandates and observance by competent authorities.
- All affected stakeholders will have the opportunity to directly participate in the development of the resettlement plan and associated decision making processes.
- Timeframes will be developed in consultation with the affected communities and clearly communicated.
- Future living standards will be improved, or at a minimum will be the same as they had been in the traditional settlement.
- Cultural and social fabric will be preserved, respecting individual autonomy.
- Affected people are entitled to equitable compensation for disruption and any loss of access to land or property and assisted so that their socio-economic condition is as at least as favourable as it would have been if there had been no project intervention.
- Two-way communication channels will be maintained and fostered.
- Oriented resettlement processes with collective relocation of communities are now standard practice, even in the case of some families who prefer individual negotiation opting out of the group.
- Consistent with the above, thorough evaluation and determination of assets and impacts, a compensating response is developed to assure that affected population is duly indemnified and/or compensated.
- Our core zone of influence encompasses the communities located in the municipalities next to the mine operation, the railway, and the port.
- It is recognised that resettlement may be appropriate where a community is adversely affected by the indirect or cumulative impacts of mining.
- All consultative actions with various stakeholders are properly documented in formal minutes and distributed to all parties.

Tabaco

This resettlement, conducted several years ago has emerged as the most difficult social issue for Cerrejón and for the people involved. As a result, the company has created during the past year, with the help of specialized consultants, an action plan that has led to the formation of the community-generated “Tabaco Network for Endogenous Development” (in Spanish: “Red Tabaco”, where “red” means network). Its purpose is to assist the former residents in recovering the “territorial security” they had while they lived there. The concept of territorial security includes economic security, social security, and human security. These encompass the exercise of rights such as food security, health, work, housing, respect for human rights, and education. This clearly exemplifies the Company’s desire to work with this important segment of former residents to improve their livelihood. Much work has been done during the past twelve months and the community’s response has been positive. Cerrejón and the Red Tabaco have a positive and progressing relationship.

Nevertheless, as the Panel rightly notes, there are some former residents represented by the Tabaco Relocation Committee (TRC) who are not part of this group and with whom we do not yet have a similarly positive relationship. Cerrejón agrees with the Panel regarding the need to engage in dialogue with the TRC to discuss the Panel’s recommendations relative to Tabaco. To that end, we are proposing to meet with them to discuss a mutually agreeable way forward. Our expectation is that this will be facilitated by the involvement of a mutually agreeable independent facilitator or monitor and propose to suggest this to the TRC and all former residents. We also propose to suggest a firm timeframe, again in consultation with the TRC, within which we will collectively work to bring the outstanding issues to a close. We hope that this time frame will not extend beyond the end of 2008.

The process will include consideration of the Panel’s recommendations that all former resident families be invited to constitute a collective to work a communal plot of land. Cerrejón will also seek to uphold the Panel’s recommendation that the monies currently in escrow for compensation should now be paid, with an inflation correction plus interest, to all those entitled. Cerrejón has also been working with the Red Tabaco group to progress the Panel’s recommendation of a development bursary which has allowed nearly 25 productive projects to start.

We also support the suggestion of the Panel to carry out a symbolic reconstruction initiative that will result in community identification and strengthening. This will need to be driven by the aspirations of the community but could include a community centre and/or church as agreed with the former residents. We will work with all former residents to determine the support for such an action and what would be most relevant and valued by them.

Cerrejón cannot resolve the legacy issues arising from the Tabaco situation without the support of those affected and, as suggested by the Panel, this needs to be a truly participatory consultative process. Our commitment is clear: we want to work together with all former Tabaco residents to find lasting solutions and our objective is to achieve resolution of all outstanding issues within an agreed timeframe. Cerrejón commits to publicly report on the progress made on these issues on a six-monthly basis until they are resolved. The reports will be agreed by the independent facilitator. The first report will be published in October 2008.

Ongoing Processes:

We are working with the communities of Roche, Patilla, Chancleta, and Tamaquito to assist their resettlement to nearby locations outside the coal leases. We recognize that in the past the residents of these communities within the mine lease area have not benefited from the economic activity generated by the mine in a manner which is appropriate, given their needs and proximity.

Post-relocation social programs are being implemented with the community of Oreganal. This specific initiative was started in 2006 and is showing positive results in increased community participation and empowerment. Cerrejón's firm intention is to try to improve the living conditions of these communities. The net result of Cerrejón's presence in the region should be a measurable improvement of their quality of life; anything less is unacceptable to us and many of our stakeholders.

The resettlement activities include a set of economic, social, and educational plans that are community-specific, and oriented towards the improvement of living conditions. A fully participatory consultation process has been the norm for all recent resettlement negotiations (Roche, Patilla, Chancleta and Tamaquito). The Panel's report indicates that there may not yet be as high a level of trust as we believe to be vital in moving the processes forward, which indicates, at the very least, a need to improve our communication efforts. We are committed to a transparent process in which all those affected can have confidence.

Cerrejón has learned from the past. Resettlements must be handled with professionalism, rigour and sensitivity and the utmost importance is being attached to them. We will continue to review our procedures in the light of feedback from the communities involved and the advice of others to ensure that they represent best practice and deliver on our objective to ensure the people involved are better off as a result.

4. Cerrejón Foundations System

Cerrejón acknowledges the Panel's recommendation that it explore how it can more effectively contribute to sustainable development in La Guajira. To this end, we will further strengthen our social-responsibility actions for the long term benefit of the communities and to seek sustainability for the people of La Guajira. The Company's "Cerrejón Foundation" has been actively working with the community since 1984. We are now multiplying this effort by creating a *System of Foundations* with four, specialized focal points centered upon La Guajira's pivotal, priority problems. This System will continue to seek even greater social-management depth and focus to promote and support sustainable development projects in La Guajira.

The new Foundation System includes:

- *Cerrejón Foundation for Progress in La Guajira*: Focused on promoting entrepreneurial, private sector, productive and self sustaining business projects to guarantee sustainable development in the region.
- *Cerrejón Foundation for Water in La Guajira, Aqua-Guajira*: To fight desertification and to develop practical, simple and replicable solutions to clean water shortage, especially in the rural communities of La Guajira.

- *Cerrejón Foundation for Indigenous Development in La Guajira*: Dedicated to working with La Guajira's indigenous communities to improve their living conditions while maintaining and nurturing their cultural values.
- *Cerrejón Foundation for Institutional Strengthening in La Guajira*: The vast resources generated by La Guajira's mining wealth (royalties paid by Cerrejón in 2007: close to US\$130 million) are key to its development. This cannot happen without strong institutions and able, educated public officials in an environment of transparency and effectiveness. The Foundation aims to partner with relevant institutions to help ensure that those conditions are achieved and that investment of La Guajira's wealth from mining royalties and other sources results in the sustainable elevation of living standards in the region.

The Panel recommended that Cerrejón develop the strategic objectives and specific activities in consultation with the relevant stakeholders. We intend to do this and will publicly report our progress annually through the company's sustainability report.

We fully agree with the Panel's recommendation that we should further encourage the participation of international development agencies, donor governments and multi-lateral institutions. Good progress is being made in this regard and we are in the process of developing alliances —both national and international— to apply proven programs, funds and resources to different regional development programs.

The Panel's advice that good governance will be fundamental to the long term success of the Foundations is well made and their recommendations will assist in the further development of our approach. We have sought to ensure that each of the Foundations have high caliber Executive Directors, selected for their knowledge, expertise, and management skills Each foundation will also have a world-class independent Board of Directors, which will provide oversight, expertise and experience.

The Foundations are interacting with local provincial and municipal governments in order to help them achieve their stated goals (e.g. supporting the preparation of the Regional Development Plans) and to secure their participation in the Foundation's programmes. The Directors contribute their time and experience as participants in other institutional committees such as: water coverage, support for the strengthening of the judicial system, and competitiveness, among others.

During 2007, Cerrejón invested, after paying our tax and royalty obligations, over five-million dollars in its direct social responsibility actions. Today, La Guajira's economy depends significantly on coal exports (about 50%). The Company's intention is to help generate the means and alternative projects for the Guajirans to take advantage of the mining wealth resources and to prepare for a better, sustainable future and one that reduces dependence upon and diversifies away from coal mining.

Cerrejón is committed to improving the transparency of the use of its payments to government and to working with others to facilitate proper scrutiny of how such revenues are accounted for and deployed – see *Section 4.3 – Royalties*.

4.1 Engagement with National and International Civil Society Organizations

As noted above, we fully support the Panel's assertion that Cerrejón should work to attract many more local and international institutions to work in La Guajira. In order to enable Cerrejón to tap into the experience and expertise of civil society organizations both local and international in a more systematic way, the Foundations System will act as a vehicle to attract development programmes, aid and the engagement of civil society organizations. Their actions, in the form of specific projects with very precise goals, will be complementary to those carried out directly by Cerrejón. Currently, we are working, among others, on the following projects:

- Fulbright Commission, a Scholarship program for advanced studies in the United States. Cerrejón is funding post-graduate studies for graduates who were born in La Guajira and who will return to work there upon graduation. This complements the 4 year-old Excellence Scholarships where the Cerrejón Foundation System completely funds five year undergraduate studies for the top ten high school graduates in La Guajira every year. 40 students have benefited to date.
- Entrepreneurs for Education Foundation - "Empresarios por la Educación" a Colombian NGO, to conduct a census of the educational infrastructure in the region, and software that allows better planning for infrastructure and education was given to the Regional Education Board.
- Children's Day Foundation - "Corporación Día del Niño", improvement of child-development in playing rooms – *ludotecas* - program in cooperation with the municipalities of Albania, Uribia, and Fonseca.
- "Corpoeducación" a local NGO, projects to improve schools in Albania, Hatonuevo, and Papayal..
- National Technical Education Service - SENA, several programs to train technicians who are then employed by Cerrejón, many of whom come from the areas to be resettled.
- USAID and Colombian Government agencies to start new socioeconomic development projects in agriculture and micro loans, initially worth more than US\$200K per year. Started in 2007. The Cerrejón Foundation for Progress manages and allocates those funds in the region.
- Aid to Artisans—an American NGO, a project oriented towards the Wayuu community to strengthen craftsmanship. Bearing in mind that craftsmanship is considered one of their main production and sustenance activities, the company promotes craft activities among the natives of La Guajira Department. We fund projects that create commercial products characterized by their originality and beauty, and assist the communities to develop these activities into sustainable sources of income.
- International-Alert, a peace-building NGO in support of activities in Colombia. Cerrejón became a pilot program for the evaluation of how a private enterprise can engage in Human Rights promotion.
- Nutrition program with ICBF, the Government Institution dedicated to improving the standards of childhood life.
- Strengthening ethnic education – intercultural bilingual program in Kamusuchiwo'u indigenous School in the "Alta Guajira". 800 children fully enrolled, over 100 boarding at the school.
- Young Soccer Players Talent program.
- Prevention of HIV/AIDS program, Health Brigades Program with international monitoring of the International Federation of Chemical, Energy, Mine and General Workers' Unions (we are delighted that the ICEM values this program as highly as we do and look forward to continuing to build on our success to date).

The Foundation System has the legal capacity and the social recognition to enable it to attract strategic partners, development aid, and government funds. In this way, building on the recognized management effectiveness and transparency of the Cerrejón team over 27 years, the System can enhance the effects of sustainable development and poverty reduction in La Guajira. Furthermore, the coordinated work between the Social Responsibility and Environmental Departments of Cerrejón, in conjunction with the System, guarantees the overall achievement of sustainable development parameters.

The new Foundations will provide additional support to productive projects, water solutions, institutional strengthening, and more focused work on the indigenous population. These are in addition to the projects the Social Responsibility Department currently has underway in the areas of education, health, culture, and sports.

As previously mentioned, Cerrejón and the Foundations already have several projects in place, but the above-mentioned new efforts have just begun. It is our aim to involve some of the Peace-building NGO's as partners in our projects. While we believe we have already engaged numerous international NGOs and other civil-society organizations, La Guajira is clearly in need of more help. Cerrejón will work to encourage others to join in its efforts, both directly and through its Foundations.

To assist with this objective, Cerrejón, with shareholder support, will host a "Forum for Regional Development" no later than the first quarter of 2009, inviting additional international NGOs, civil society groups, government and companies to participate in the development of joint strategies and action plans.

4.2 Wayuu – Culture and Employment

We acknowledge the Panel's view that the Wayuu are a particularly vulnerable segment of the local population and that to date, they have not benefited to the same extent as some others. We agree that this must be addressed as a central element of Cerrejón's social responsibility practices going forward.

Close to 40 per cent of the population of La Guajira is indigenous, belonging to the Wayuu ethnic group. In 1982, the Company initiated the PAICI (Comprehensive Aid Plan for Indigenous Communities), through which it has developed programmes in education, health, protection of cultural heritage, and socio-economic development of the indigenous population of La Guajira.

In order to further enhance our socio-economic development activities with the Wayuu communities, the Cerrejón Foundation for Indigenous Development in La Guajira will manage PAICI and will continue to develop its actions with the Wayuu communities. Ethno-education programmes, aimed at preserving the language and culture of the Wayuu, are being reinforced within the Social Management Division of Cerrejón, which currently has several projects in place, including the following examples:

- Food and Nutrition Support Program – "Apoyo Alimentario y Nutricional" - in agreement with: the ICBF (Instituto Colombiano de Bienestar Familiar): Ayatajirawa - Trabajo en Común – Working Together, Hogares Comunitarios de Bienestar y Materno Infantil.
- Basic Sanitation, Health, and Hygiene Program – "Saneamiento Básico Integral SBI": This project is geared towards training and preventive actions to improve the quality of life in aboriginal communities. It includes a Housing component with the participation of Anna Watta Kai Foundation, Public Utilities of Medellín (Empresas

Públicas de Medellín -EPM), ICBF (Instituto Colombiano de Bienestar Familiar), University of La Guajira, SENA (Servicio Nacional de Aprendizaje), and the Municipality of Uribia.

- Water Management Program – “Abastecimiento y Manejo de Recursos Hídricos”
- Productive Projects Program with the Presidential Agency for Social Action: 18,750 people are covered by this Project.
- Small-business development program that covers the aboriginal “resguardos” of Trupio Gacho, San Francisco y Provincial, as well as the “Rancherías” along our railroad, and is carried out with support from SENA.

Cerrejón agrees with the Panel's recommendation that more needs to be done to enhance the skills, employability and access to opportunities of Wayuu community members such that they are better able to participate in local businesses development opportunities in the region. To address this issue the Cerrejón Foundation for Indigenous Development in La Guajira, together with the Cerrejón Foundation for Progress in La Guajira, will develop a special education and training program. Building on existing efforts, the program will be developed in consultation with the Wayuu communities, government, NGOs and other agencies contributing to development in the region. The program will be presented and discussed at the development forum outlined section 4.1.

In 2008, the Foundations signed an agreement with SENA (National Training Services) for the training of 1000 Wayuu youth in diverse entrepreneurial skills, which will later be turned into productive projects. In 2007, in a similar program sponsored by the former Cerrejón Foundation, 800 Wayuu were trained and 20 community projects were formed. Two of these projects were awarded national prizes and received financing from government agencies.

We recognize that in earlier years insufficient effort was made to equip members of the Wayuu community with the skills needed by the operation or to reach out to them in this respect. Cerrejón is currently committed to have at least 20% of its new workforce made up of inhabitants from neighboring communities and indigenous population. We have today 161 Wayuu (3.2% of the total work force) hired; and last year, 36% of new recruits were from neighboring communities. It is important to note that 60% of Cerrejón's labor force comes from La Guajira. We will publicly report our progress through our sustainability report.

Cerrejón's Social Management Division, together with the Cerrejón Foundation for Progress in La Guajira, will aim to ensure that activities are implemented which enable local people to acquire the necessary skills to gain employment both with Cerrejón and with other companies.

Our initiatives will be supported by local institutions such as SENA and universities, as well as international institutions. Young men and women of the communities were recruited for educational and training programs both during and after the resettlement process (INFOTEP in San Juan; SENA in Riohacha, High-School grade-improving). They will be evaluated later for future employment, by Cerrejón and its contractors.

Some figures from 2007: several residents of Patilla and Chanqueta who were assisted in obtaining legal documentation, received scholarship training at SENA, internal training in Cerrejón, and are being evaluated for direct employment; a young woman and two young men from Tamaquito are being examined for SENA training; a social program agreed on with Oreganal community in early 2007 has hit outstanding goals

such as 33 SENA trainees, educational upgrades for 57 high school students, 16 are attending a technology institute and four students are at La Guajira University; , Cerrejón has recruited 12 young people as trained operators; contractors have hired 14 workers; and four students from Roche are upgrading their high-school grades.

Cerrejón will obtain specialist academic advice in enhancing its efforts to promote ILO Convention 169, as well as “gender- promotion” issues, to which it is deeply committed.

As recommended by the Panel, the new Foundation, along with our Social Management Division, will develop plans to recognize burial sites along the railway, and in other locations during 2008. They will do this with the involvement of the elders and the traditional authorities of the Wayuu communities and ensure that any actions have the full support of the local communities.

The Panel has recommended that we rename the Highway in recognition of Wayuu people. Again we will seek the involvement of the traditional authorities and the leaders of the Wayuu communities to determine the most appropriate method of implementing this recommendation. With the support of the local communities, we will aim to complete by the end of 2008.

The Panel’s recommendation that the community at Media Luna be socially reunited is supported by Cerrejón but clearly can only happen with the consent and participation of the Wayuu clans involved. Cerrejón management will facilitate discussions with the Wayuu clans involved, to determine their aspirations and to define the areas in which Cerrejón can support this community to achieve its aims and address its socio-economic concerns. The Progress and Water Foundations have clear mandates to support the indigenous population in two of the areas of critical need: unemployment and access to water and their support will be available to the community. In consultation with the community, a support program will be developed within 6 months.

The Progress Foundation, along with SENA and INVEMAR, is currently co-financing a production project for oysters in the Media Luna area. Employees for this project are being selected in the region.

Currently, a water-supply project is being managed by two formerly-conflicting communities in Media Luna. The management of water distribution is shared jointly. Future water projects will consider service delivery to that area as a whole, and will incorporate similar methods of trust-building among the various clans within the Wayuu people.

4.3. Royalties

Since Cerrejón’s inception, a total of \$874 million dollars in royalties have been generated. Eighty-four per cent (84%) of these royalties have remained in La Guajira, and have been geared to implement ambitious social and economic-development projects. Cerrejón is a strong supporter of the Extractive Industries Transparency Initiative (EITI) and will continue to publicly report its royalty and tax payments.

Cerrejón is fully committed to the long-term sustainable development of La Guajira. It is understood that the company cannot supersede the government and its institutions. However, we can support citizens in holding the elected representatives and the local government accountable to the people.

Cerrejón agrees with the Panel's recommendation that the Company should explore means of disseminating its publication of all payments to government more widely, including through the local media. Cerrejón will include this information in community and other stakeholder meetings to stimulate awareness and debate. The report also recommended that Cerrejón should encourage the establishment or growth of organizations capable of sustaining civil society's engagement in the management of royalty payments and in the monitoring of their use and that the company should work to strengthen the capacity of government to manage these funds in a transparent and accountable manner. The Cerrejón Foundation for Institutional Strengthening has been established to progress this work in cooperation with international multilateral development organizations, civil-society organizations, and NGOs committed to institution-building efforts. This includes better planning and implementation of government actions, with transparency and accountability. Cerrejón will remain attentive to the situation and do the required follow-up to ensure that these goals are attained.

Cerrejón has also supported the creation and promotion of a grassroots movement to monitor the use of royalties, and the fight against corruption. We are working together, in the context of signed agreements, with government agencies such as the Vice-Presidency of the Republic of Colombia, and the Office of the National Comptroller. Cerrejón will meet with relevant Colombian Government Departments to ensure the Company's support for EITI and its broad adoption within Colombia is understood.

5. Voluntary principles on Human Rights and Security

We fully agree with the Panel's view that any allegations of aggression by private security personnel employed by the mine or public security forces need to be vigorously investigated and remedial action taken if the allegations are substantiated. This has been and will remain the case, however, we recognize that putting in place transparent processes for handling complaints and a systematic mechanism for dialogue with local communities around security concerns would be valuable. We will explore the Panel's recommendations as part of our overall community consultation program.

Cerrejón will also remain engaged in the Colombian process to develop indicators relative to the Voluntary Principles. Our objective is to develop a system of indicators that will be readily accessible from the Internet to enable civil society and interested parties to follow-up and monitor the progress in this area. The indicators for the Voluntary Principles implementation follow-up address processing complaints about security issues.

Voluntary Principles implementation strategy:

Since 2005, Cerrejón has had an agreement with the independent NGO *Fundación Ideas para la Paz – FIP* - to help the company develop a Voluntary Principles implementation strategy. This task includes:

- General recommendations on how to include the VPs in our management systems;
- Training on the VPs of public and private security personnel, and community members;
- Discussion of a risk-analysis methodology for the Protection division;

- A detailed analysis of the weaknesses and strengths of current matrices;
- Suggestions as to how to redesign matrices to take into account potential risk factors for reputation and legal liabilities;
- Guiding protocols for the relationship with private security; and
- Guiding protocols for the relationship with public security.

Human Rights Training

In 2004-2005, through an agreement between the company, the Human Rights Training Centre (CECADH), and the Ministry of Defence, Cerrejón carried out a three-phase training program on human rights and international humanitarian law for public security officials (Police, Army, and Navy).

Initially, the training was focused on public security forces. In 2005, it was extended to other state security organizations, private security contractors, the community, and Company employees. In 2006, it was further extended to include Indigenous authorities and leaders, civil and government authorities, and greater numbers of public and private security forces.

The Human Rights training program has covered 6,553 people. In 2007 alone, the Human Rights program worked with 1,352 Employees, 577 students in the Influence Area, 532 members of the public forces, 570 personnel of our Private security, and 342 people belonging to indigenous Communities. Cerrejón will continue expanding this program.

We will develop indicators of the success of our extensive human rights training as suggested by the Panel by the end of 2008. Progress will be reported through the annual Sustainability Report.

6. Environmental and Health Issues

Environmental and health standards:

Cerrejón acknowledges the Panel's findings that there is a lack of trust amongst the Union and local communities in relation to the company's environmental and community health issues. Our aspiration is to find means of increasing trust and confidence as the bedrock of our relationship with our internal and external stakeholders based upon the principles of engagement, responsibility; good environmental stewardship and transparency.

Cerrejón is committed to continuous efforts to identify and control the environmental and health risks related to every activity in which it is engaged. To that end, about US\$130 million has been invested in environmental-action programmes since the beginning of our operations. These programmes include environmental-impact studies, systems and equipment for air and water quality-control, land rehabilitation programmes, systems for the efficient use of natural resources, acquisition of lands for compensation, programmes for the management of native flora and fauna, and environmental-monitoring and control programs.

Coal production, transportation, and shipping processes are executed using the best mining practices, fulfilling the environmental legal requirements of the country and international standards. Based on the results from the air and water-quality monitoring

network in the surrounding communities, we can assure and demonstrate that our operations have not caused the deterioration of the natural resources or the surrounding communities. To ensure and improve the progress in Health, Safety, Environment and Communities, Cerrejón implemented the Operational Integrity System (SIO), which offers a series of parameters oriented to the prevention and minimization of the risks of the operations' activities. Cerrejón has been certified in the standard ISO 14001 for its environmental-management system and in OHSAS 18001 for its Occupational Health and Safety Programs. We have gained national and international recognition for our environmental programmes.

The air-quality-monitoring program demonstrates that dust levels are below the maximum-permitted limits established by Colombian environmental authorities, which are consistent with international standards (Minambiente -Ministry of the Environment-Res.601/April, 2006). The results of air and water quality are reported to Minambiente and Corpoguajira, the regional environmental authority, on a semi-annual basis. These authorities perform frequent environmental follow-up visits and audits to our facilities and control systems.

Air Quality:

To ensure that air quality remains inside the legal levels established by the EPA (Environmental Protection Agency) (Breathable particles -PM10: 50 micrograms per cubic meter 37, and total suspended particles -TSP: 100 micrograms per cubic meter - annual average) in the neighbouring communities, the following control measures exist:

- continuous watering of the haul roads with a fleet of 18 tanker trucks (20 thousand gallons capacity each);
- dust-suppression systems in all the coal transfer places;
- covered conveyor belts and storage silos to load trains with adequate control of emissions;
- early land rehabilitation program to reduce emission by air erosion in low vegetation lands;
- speed control in transportation ways; and
- temporary or permanent closing of internal roads when they are not required for the operation.

The efficiency of the control measures and the compliance with air-quality standards is verified through a network of 18 monitoring stations, located downwind as well as upwind from the Mine and the Port. They measure total suspended particles (TSP) and breathable dust (Pm/10).

The results obtained, which are sent to competent environmental authorities, the Ministry of the Environment, and Corpoguajira, indicate that dust concentration at all stations fully comply with regulations with regard to daily, as well as annual, standards.

Cerrejón agrees with the Panel that third party verification of the Company's environmental monitoring results will help build trust and confidence in the programs. To this end we will work with the Union and community groups to identify the best way to implement a workable participatory monitoring program including third party validation. The Panel's suggestion of partnering with local universities will be considered as part of this process. As a minimum we will include third party review of our Sustainability Report. Our aim is to have this process in operation within 12 months.

7. Industry-Standards Improvement

To this end, Cerrejón is working with the Ministry of Mines to improve local industry standards. We have presented a series of educational forums in the different municipalities of the country. Their purpose was to train miners, especially from small and medium companies in the central area of Colombia, on industrial safety for the prevention of accidents and to create awareness about safety at work. This was a result of the high accident rates and noncompliance with regulations of (mostly artisanal) mines.

We agree that more needs to be done in this sector that carries negative historical baggage. At Cerrejón, we believe this is part of our corporate responsibility and will continue to look for opportunities in which we can help promote the adoption of consistently high standards. We will liaise with Government, industry associations, and SMEs (small and medium enterprises) to help facilitate a workshop to share good practice and progressive standards in the areas of particular concern.

IV. Conclusions

The comprehensive independent review of our social processes has been a very constructive experience for Cerrejón. The issues addressed by the Panel and their consultants are key to upholding our social license to operate and we are committed to following through on all the recommendations within a defined timetable. We firmly believe that adopting the recommendations will enhance the engagement process we have in place with our stakeholders and thus we expect they will also welcome the Panel's advice.

Cerrejón believes important and positive changes have already been introduced in recent years to its social engagement structure and culture. Nevertheless we agree that still more is needed and we will continue to focus our efforts on continuous improvement. Carbones del Cerrejón aspires to be recognised as a world-class organization and any behaviour or practice that is deemed not to be best international practice will be rectified. The panel has suggested clear areas for improvement and we will address these as a matter of priority

Topics such as our resettlement processes, past and present, are contentious and we will redouble our efforts to address the legacy issues and ensure consistently positive outcomes in the future. Cerrejón is open to new approaches such as the one proposed by the Panel for Tabaco and will offer independent arbitration in an effort to address the current breakdown in communication with the TRC. We are positively willing to engage all former residents and we hope that they have a reciprocal desire. We appreciate the Panel's fair assessment of our current resettlement policies. In working with the four communities which are scheduled for resettlement we recognize the imperative of in-depth and comprehensive consultation, transparency and confidence that we are committed to outcomes that aim to improve their quality of life and access to opportunities.

Our outreach programs have been enriched with new mechanisms such as the Cerrejón Foundation System and we feel confident this approach will enable us to deliver on the Panel's recommendations. This is a field rich with possibilities and we



are excited by the prospect of further advancing Cerrejón's role as positive force for change in the region.

La Guajira is a region with great potential. Other than Cerrejón there have been very few examples of organised economic activity which can uplift the quality of life for the region's inhabitants. As a private enterprise we can do much, but we need to be clear about the legitimate boundaries for our independent action. Cerrejón aspires to, and is firmly committed to, helping generate conditions for long term sustainable development for the region, but we cannot, and do not want to replace the State. In matters such as the provision of core infrastructure and income distribution it is the State which is responsible, not private enterprise.

We are pleased with the Panel's balanced assessment and greatly appreciate the constructive way in which all stakeholders have participated in the process. The Panel has given guidance in that matter both for us and for our critics. We are confident that all stakeholders who are genuinely interested in the well being of the people of La Guajira will positively engage with us, with our Foundation System and with civil society there, in the search for real change and for improvement of their quality of life. We hope we can all benefit from this exercise and work together for a better future for La Guajira and for Colombia.

Appendix 1

Cerrejon Social Responsibility – Panel Recommendations and Management Response		
Panel Recommendations		Cerrejon Response
Cerrejon’s Corporate Culture		
1	Cerrejon must develop its own corporate character and image to differentiate itself from antecedent companies (Intercor and Exxon). Cerrejon’s corporate culture and image should be built on both its own interest and the interests of local communities in La Guajira.	Cerrejón is committed to working towards an operational culture that gives priority to the way we interact with our stakeholders and one that instills in our operation cultural values and respect for all with whom the company interacts. We will develop a clear statement of our culture and values and communicate broadly to our employees and stakeholders.
2	Cerrejon should initiate training to advance the transformation of the company’s operating culture and publicly report on its progress (including overall training programs).	As recommended by the Panel, we will develop a training program to ensure all management and employees understand and live the company’s values in their day-to-day work and decision making. We will use our Sustainability Report to communicate our progress on this important area.
3	Cerrejon should implement a process of “re-tooling” with respect to the management of social impacts.	A new management team has been assembled to address and improve all aspects of our social programs. An enhanced community engagement program will form a critical part of our new approach. This will be developed in consultation with our key stakeholders to ensure that engagement opportunities and information are appropriate to their needs. A fundamental objective of the program will be to ensure that local communities are fully informed of and have the opportunity to participate in decisions that may affect them.
Social Management		
4	Shareholders and senior management should recognize that to date success in production has been more marked than success in building trust with the local community. An approach that goes beyond strict legal compliance will be important in addressing this issue.	A new approach is being implemented based on international standards. We will use our sustainability report to promote our achievements and discuss our challenges.
Resettlements		
5	It will be necessary for action on Tabaco to be accompanied by the realization that there may be hold-over issues from earlier efforts which come to the fore again, requiring comprehensive and planned action. Cerrejon should address the situation of all the Tabaco families, regardless of their stance on negotiation in 2002. This kind of solution will only be	Our overall approach to resettlement has been reviewed and revised to take into account the Panel’s recommendations. Particular attention will be given to the development of clear timeframes in consultation with the affected communities. Our expectation is that resolution of the Tabaco issues will be facilitated by the involvement of a mutually agreeable independent facilitator and propose to suggest this to the TRC and all former

	sustainable if it is supported by a fully participatory consultative process involving all stakeholders, which should be commenced as soon as possible.	residents. We also propose to suggest a firm timeframe (not exceeding beyond the end of 2008), again in consultation with the TRC, within which we will collectively work to bring the outstanding issues to a close. Through this process, Cerrejón will seek to uphold the Panel's recommendation that the monies currently in escrow for compensation should now be paid. Cerrejón will continue to work with the Red Tabaco group to progress the Panel's recommendation of a development bursary.
6	All parties should focus on what can now be done to help divided communities and otherwise affected communities share better in the positive impacts of mining at Cerrejon.	In addition to the specific actions to enhance our community contribution, we also support the suggestion of the Panel to carry out a symbolic reconstruction initiative that will result in community identification and strengthening. We will work with all former residents to determine the support for such an action and what would be most relevant and valued by them.
7	Cerrejón should recognize that resettlement processes based on international standards should be triggered not only when physical resettlement is required, but also when a community is affected by the very proximity of the mine and its impact on other communities.	Cerrejón agrees with the Panel that resettlement may be appropriate where a community is adversely affected by the indirect impacts of mining. This concept has now been incorporated in our resettlement principles.
8	A broad conception of "affected community" must be embraced by Cerrejon as a key driver of its approach to both resettlement and good neighbourliness, including how it deals with communities who are "affected" but not "displaced".	
9	Cerrejon should view past resettlements as liabilities which need to be addressed through a new approach that emphasizes clear consultation and negotiation practices and strategies. It may also be appropriate for Cerrejon to continue to promote group as opposed to individual re-settlement, as is advocated in modern standards covering re-settlement.	Our overall approach to community resettlement has been reviewed and revised to take into account the Panel's recommendations.
Cerrejon's Foundation System		
10	Cerrejon's aim should be to explore how its existing role and capacity can be better harnessed for sustainable and equitable socio-economic development in La Guajira.	Cerrejón acknowledges the Panel's recommendation that it explore how it can more effectively contribute to sustainable development in La Guajira. To this end, we will further strengthen our social-responsibility actions for the long term benefit of the communities and to seek sustainability for the people of La Guajira.
11	Each Foundation's strategic objectives	Agreed. Cerrejon will work with the relevant

	and specific activities need to be developed through an extensive and participatory consultation process with relevant stakeholders. These should be published and disseminated, both as a means of providing clarity and as a way of managing expectations.	stakeholders to develop the strategic objectives and specific activities for each Foundation. We will publicly report our progress annually through the company's sustainability report.
12	The independence of the Foundations should be strengthened and made explicit, with particular attention given to ensuring that the Foundations are acknowledged as being properly informed, expertly guided and sufficiently independent.	The Panel's advice that good governance will be fundamental to the long term success of the Foundations is well made and their recommendations will assist in the further development of our approach. We have sought to ensure that each of the Foundations have high calibre Executive Directors, selected for their knowledge, expertise, and management skills, with world-class Boards of Directors.
Engagement with Civil Society		
13	Cerrejon should increase efforts to encourage and attract civil society organisations, Colombian and international development agencies, donor governments and multi-lateral institutions.	<p>We fully agree with the Panel's recommendation that we should further encourage the participation of international development agencies, donor governments and multi-lateral institutions. Good progress is being made in this regard and we are in the process of developing alliances —both national and international— to apply proven programs, funds and resources to different regional development programs.</p> <p>To assist with this objective Cerrejón will host a "Forum for Regional Development" inviting additional civil society groups, government and companies to participate in the development of joint strategies and action plans. The Forum will be held no later than the first quarter in 2009.</p>
The Wayuu - Culture and Employment		
14	The key focus for future Cerrejon social responsibility practices should be addressing the fact that the Wayuu have benefited the least by the mine's presence, while they are the most vulnerable and the most impacted segment of the local population.	<p>We acknowledge the Panel's view that the Wayuu are a particularly vulnerable segment of the local population and that to date, they have not benefited to the same extent as others. We agree that this must be addressed as a central element of Cerrejón's social responsibility practices going forward.</p> <p>To address this issue the Cerrejón Foundation for Indigenous Development in La Guajira, together with the Cerrejón Foundation for Progress in La Guajira, will develop a special education and training program. Building on existing efforts, the program will be developed in consultation with the Wayuu communities, government, NGOs and other agencies contributing to development in the region. The program will be presented and discussed at the development forum discussed under recommendation 13.</p>
15	Cerrejon should develop a clear strategy and measurement indicators	Cerrejón is currently committed to have at least 20% of its new workforce made up of inhabitants

	to support its policy commitment, which promises that 20% of newly hired workers will come from Wayúu communities.	from neighboring communities and indigenous population. We will clearly articulate our plans and publicly report our progress through our sustainability report.
16	Training for future local employees should be complemented by parallel process of business development support to enable local companies to meet the standards required by Cerrejon in delivering certain products and services.	In 2008, the Foundations System signed an agreement with SENA for the training of 1000 Wayuu youth in diverse entrepreneurial skills, which will later be turned into productive projects. We will report the progress of this program in our sustainability report.
17	The company could work with the Wayuu clans to organize ceremonies which would recognize the burial sites along the railway line and (in co-operation with the appropriate public authorities) explore options for renaming the road as the "Wayuu Memorial Highway".	As recommended by the Panel, we will develop plans to recognize burial sites and rename the access road during 2008. We will do this with the involvement of the elders and the traditional authorities of the Wayuu communities and ensure that any actions have the full support of the local communities.
18	Attempting to re-unite the community at Media Luna, at least socially if not physically, should be a priority for the management of social impacts at Cerrejon.	The Panel's recommendation is supported but clearly also requires the consent and participation of the Wayuu clans involved. Cerrejón management will facilitate discussions with the clans to determine their aspirations and to define the areas in which Cerrejón can support this community to achieve its aims and address its socio-economic concerns. In consultation with the community, a support program will be developed for implementation within 6 months.
Royalties		
19	Cerrejon should explore means of disseminating information on royalties more widely, with the objective of stimulating awareness and active debate amongst the population. It should encourage the establishment or growth of organisations capable of sustaining civil society's engagement and interest in the management of royalties and of monitoring and holding local government accountable for their use. It should also address the problem of state capacity, perhaps through the Foundation for Institutional Strengthening.	<p>Cerrejón will explore means of disseminating its publication of all payments to government more widely, including through the local media. We will also continue to include this information in our Sustainability Report and discuss it with the local communities as part of our stakeholder engagement program.</p> <p>Cerrejon will also meet with relevant Colombian Government Departments to ensure the Company's support for EITI and its broad adoption within Colombia is understood.</p>
Security and the Voluntary Principles		
20	Allegations of aggression by security forces need to be rigorously investigated and efforts made to ensure that correct behaviour and attitude by Cerrejon security personnel serve to strengthen relations between the company and nearby communities. Cerrejon should	We fully agree with the Panel's view that any allegations of aggression by security forces need to be vigorously investigated and remedial action taken if the allegations are substantiated. This has been and will remain the case, however, we recognize that putting in place transparent processes for handling complaints and a systematic mechanism for dialogue with local communities

	work to establish a more transparent process for handling complaints about security and put in place a systematic mechanism for dialogue with communities around security concerns.	around security concerns would be valuable. We will explore the Panel's recommendations as part of our overall community consultation program. We will develop indicators of the success of our extensive human rights training as suggested by the Panel by the end of 2008. Progress will be reported through the annual Sustainability Report.
21	Cerrejon should take advantage of the process currently underway in Colombia to develop clear indicators for implementation of the Voluntary Principles. Piloting and refining these indicators will provide a proper mechanism for recording, monitoring and addressing alleged violations, as well as a system for evaluating the results of its extensive human rights training programme.	
Health and Environmental Issues		
22	Cerrejon should pay serious attention to allegations from the Union and local communities regarding the incidence of dust-related diseases.	Cerrejón agrees with the Panel that third party verification of the Company's environmental monitoring results will help build trust and confidence in the programs. To this end we will work with the Union and community groups to identify the best way to enhance its monitoring program.
23	Cerrejon should consider partnering with universities so as to ensure that its emissions monitoring was effective, credible, and transparent.	The Panel's suggestion of partnering with local universities will be considered as part of this process outlined in response to recommendation 22. As a minimum we will include third party review of our Sustainability Report. Our aim is to have this process in operation within 12 months.
Improvement of Industry Standards		
24	Cerrejon has an important role to play in elevating industry standards. The Company should ensure that all stakeholders, from the local, to the national and international, better understand what it is trying to achieve and how it goes about it.	We acknowledge the Panel's view that Cerrejón has an important role in to play in elevating industry standards in Colombia. We will liaise with Government, industry associations, and SMEs to help facilitate a workshop to share good practice and progressive standards in the areas of particular concern.