

# Resettlements and Tabaco

TPR RECOMMENDATIONS

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 Cerrejón.

CERREJON'S RESPONSE

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.

PROPOSED KEY ACTIONS AND PROJECTS

Build symbolic Tabaco site.

Improve living standards of Tabaco communities (New Entrepreneurial Projects for Tabaco Community)

START DATE

20-Aug-08

01-Apr-08

FINISH DATE

(original end date 12/31/2009) new date depends on various factors

01-Dec-09

PROGRESS

Over the last six months, a lack of consensus has continued on where to reconstruct the new settlement. Therefore, the Hatonuevo Mayor's Office and the Tabaco community held numerous meetings, finally concluding that the Tabaco Pro-Relocation Committee (TPRC) needed a turnover of its members and continue with the reconstruction of the town. The initial Assembly was convened for June 12 of 2015. However, some members of the Committee filed a tutela action requesting that the meeting not take place, arguing that Cerrejón was dividing the community and favouring one group over another. The judge who heard the lawsuit rejected the argument and therefore, the Assembly went forward on June 21 of 2015 who approved the holding of elections to form a new Tabaco Pro-Relocation Committee. On August 5 Cerrejón sent a letter to the Tabaco community and the local authorities recognizing the TPRC and reiterating our commitment to supporting the reconstruction of Tabaco despite the current divisions between community members. The letter invited them to consider the possibility of requesting mediation by the Public Ombudsman or the Ministry of the Interior to reach an agreement. Also included in the letter is a list of the social programs offered for the Tabaco community by Cerrejón since 2008. The next Assembly was held on August 9 of 2015, at which the community members requested elections be held to vote for new members on the Committee. Finally, in the August 16 assembly the voting for new members was held resulting in the reelection of all of its members. The reelected group represent the group that prefers the reconstruction of the village on the La Cruz property (already purchased by Cerrejón and donated to the Hatonuevo Mayor's Office). The Mayor of Hatonuevo and another community group represented by the senior citizens have stated their interest in having the village rebuilt on a property closer to the town, which the Mayor supports as the costs would be lower.

In Sept. 2015, Cerrejón sent a letter to the Tabaco community and local authorities stating our commitment of continuing to work with the Committee members. In Sept. 17 Cerrejón received a petition of information from a group of Tabaco community leaders expressing their concern and interest in the importance that the new Tabaco should be inhabited by true people from this village and avoiding other people from benefiting from the reconstruction process. Cerrejón responded that this was not Cerrejón's decision but the hatonuevo Mayor's Office as determined by the Colombian Supreme Court of Justice and that they should address this concern to them and participate actively in control and oversight committees to ensure the full transparency of the process.

The Hatonuevo municipality invited Cerrejón and the TPRC to a meeting on Oct. 8 to advance in the reconstruction process of the town. Local authorities, Cerrejón staff, members of the Committee and representatives of the NGO Colectivo de Abogados José Alvear Restrepo that advises the Committee participated in the meeting. In this meeting the following agreements were reached: a) to document all meetings with written minutes, photos and video, b) all media publications should be agreed by the group, c) to ensure transparency, there will be no confidentiality over the information discussed, d) a working group will be established to follow-up on all commitments, e) the committee will do oversight to the reconstruction process but will not make decisions, f) next meetings will be held on Oct. 29 and Nov. 19 2015. However, the legal representative of the TPRC sent a letter on oct. 22 requesting to postpone the Nov. 19 date and presented a petition right request to the Hatonuevo Mayor's Office requesting to protect the rights of the Tabaco community and the Committee.

The Constitutional Court of Colombia continues to review the tutela action presented by the Hatonuevo Public Ombudsman and community members represented in the Tabaco Pro-Relocation Committee. The case had already been ruled in Cerrejón's favour on two (2) occasions (Higher Court of Riohacha and the Supreme Court). In the lawsuit, the plaintiffs requested that Cerrejón's license be suspended, that they be compensated again, and that the bargaining process with the Tabaco community begin again retroactively applying current standards and jurisprudence. Cerrejón is awaiting the Court's ruling.

In the meantime, Cerrejón continues to support the Tabaco community by offering and strengthening the social programs. Cerrejón's pending commitments (the building of the symbolic site and building the village streets) will have to wait until this agreement is reached and the construction of the village begins. The company has the resources set aside for this investment.

Cerrejón's first support in 2008 focused on financing of production projects for one to eight years for 52 families in the Tabaco Self-Development Network, investing COP 2.3 billion. The projects include agriculture, small shops, business, transportation, scholarships for youth education, reinforcement activities for administrative capacities, and the cultural identity of the Tabaco community. In Feb. 2010, Cerrejón held a workshop focusing on human rights, which provided an initial venue for reconciliation amongst the Tabaco community members. In attendance were Cerrejón officials, local authorities, and over 200 members of Tabaco. In addition, Cerrejón facilitated the Second and Third Tabaco Community Meetings held in 2011 and 2012 to strengthen the community's social fabric. In Nov/13, the patron saint festivities were held with more than 600 people attending and the Hatonuevo mayor's office participating. We shared with the public various topics concerning the Tabaco families, including the issue of the physical rebuilding of the community. At the event, the community came together and strengthened the ties of affinity and friendship in a way they can seldom do now due to the scattered nature of the families. In 2014, we are continuing with our engagement with the families, consolidating their participation in the eight programs supported by Cerrejón and implemented jointly with the Tabaco Network:

- 1. Microbusiness Program:** This program seeks to create and strengthen sustainable business units in different sectors by granting credits from the Tabaco Social Fund. Since 2007, 105 micro-credits have been granted. 16 of them have paid back, 18 of them are in arrears as of October 2014 and unlikely to pay back (17%). From the 18 companies 11 are active and 7 are inactive. We are implementing a strategy defined by Cerrejón, the Oversight Committees and the families with unpaid debts. The strategy was approved in Feb./14 by the community but only approved by the Cerrejón Progress Foundation in Dec/14 and its implementation started in Fe/15. To date, 50 projects have applied to the debt recovery strategy.
- 2. Income-Generation Program:** This program aims to create economic opportunities and support in through contracting service and seeking alternatives for employment at Cerrejón, its contractors, or other companies. It currently has two (2) projects running (transportation services and ecological vehicle washing), and has helped identify 34 jobs for Tabaco members.
- 3. Program for Creating Associations:** Cerrejón supports the creation of collectively owned companies among Tabaco community members. To date, two associative companies have been formed: the Association of Farming and Livestock Producers of the Tabaco Network (Asored-Tabaco): organization comprised of 28 members who raise cattle for beef and dairy. Cerrejón has supported them in two agreements: (1) To strengthen the farming and livestock sector (2010–2013), and (2) To strengthen the Association's production and organization (2014–2015); and the Tabaco Women Department Network Association: organization comprising 13 women heads of family dedicated to producing and selling food supplies and meals. Cerrejón has supported them with two agreements: (1) For the development of production projects (2012–2013) and (2) to strengthen the Association's production and organization.
- 4. Education Program:** The purpose of this program is to provide scholarships to cover registration fees for higher education (professional or technical careers), monthly living expenses, and counselling in career choices. From 2007 to 2014, the Education Program has supported 453 students at the primary, secondary, and higher education levels. The resources for this initiative come out of the Tabaco Network Fund. From 2007 to 2014, 235 scholarships have been awarded, 108 of them are for college studies and 117 are for educational aids.
- 5. Seniors' Program:** Currently, Cerrejón provides services in training, healthcare, recreation, and integration to approximately 43 senior citizens.
- 6. Healthcare Program:** In this program, Cerrejón seeks to facilitate the participation of Tabaco members in the healthcare program held through the agreement between Cerrejón's Social Engagement Division's Healthcare Program and the Nuestra Señora del Carmen Hospital in the municipality of Hatonuevo. Between 2010 and 2015, 156 people have participated in the program.
- 7. Recreation, Culture, and Sports Program:** this program provides instruction for Tabaco's children and youth to develop their musical abilities and skills (playing instruments and voice training) in order to strengthen their academic skills. Participants are involved in the Tabaco Network Music Group or in the Cerrejón Symphonic Orchestra depending on their age and musical ability. 108 children and youth benefit currently from the program and 30 from the sports program.
- 8. Physical reconstruction of Tabaco:** information on the left column.

STATUS OF IMPLEMENTATION

RISKS TO COMPLETING PROJECT AS PLANNED BUT MAKING PROGRESS

COMPLETED

# Resettlements and Tabaco

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TPR RECOMMENDATIONS

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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.

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A broad conception of "affected community" must be embraced by Cerrejón 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".

CERREJON'S RESPONSE

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.

PROPOSED KEY ACTIONS AND PROJECTS

Issue new resettlement policies statement.

Develop and agree with the affected communities timelines for their resettlement processes.

Develop indicators to measure current living standards of communities to be resettled and identify key actions that will improve these.

START DATE

16-Jun-08

01-Jan-08

20-Aug-08

FINISH DATE

30-Sep-08

(original end date 9/30/2008) new end dates will result from new dialogues

2/10/2009 new expected date 3Q 2012

PROGRESS

This is our statement: Cerrejón follows World Bank (WB) and International Finance Corporation (IFC) guidelines. We see resettlement as an opportunity for dialogue with local communities, improvement of their living standards and building social capital. We expect the on going resettlement processes to strengthen sustainable development in La Guajira.

**Roche:** On October 2, an agreement was reached with the two families that remained at the original site despite having accepted the resettlement agreement in 2013. The agreement included sufficient land for them to continue their cattle-ranching. One of the families is already living at new Roche. The other family is using the original site as a base until mid-December of 2015 to gather together and relocate the cattle to the new farms being handed over by Cerrejón. The agreement was voluntarily signed during the legal proceedings headed by the San Juan del Cesar judge.

**Patilla:** The 46 families eligible for relocation have been at the new site since June of 2012. Cerrejón continues to provide support in the form of aid for education and old age, educational reinforcement, payment of electrical power service, consultancy in productive projects, and infrastructure maintenance. In addition, of the 27 residents not eligible for collective relocation, 22 have now signed agreements. Out of the eight new households, negotiations have been concluded with seven. Furthermore, to date there are six floating families at the site of origin. We have also acquired 1,244 uninhabited properties out of a total of 1,436 (86.6%). To progress with the agreements pending, a negotiation table that has met seven times, has been organized involving Cerrejón, representatives of the family groups of Patilla and Chancleta, and the lawyer authorized for the tutela action. In May of 2015, expropriation requests were filed with the National Mining Agency, which has notified the families and visited the properties to assess them (currently pending release). Cerrejón provided timely notification to the families at the start of this process, and we have emphasized that we still prefer direct negotiations.

**Chancleta:** Forty-seven of the 57 families eligible for collective relocation have signed the relocation agreement and are now at their new residences. In addition, of the nine (9) resident families not eligible for collective relocation, six (6) have now signed agreements. Out of the 27 new households, negotiations have been concluded with 16. Furthermore, to date there are five floating families at the site of origin. We have also acquired 782 uninhabited properties out of a total of 901 (86.8%). To progress with the agreements pending, a negotiation table has been organized involving Cerrejón, representatives of the family groups of Patilla and Chancleta, and the lawyer authorized for the tutela action. In May of 2015, expropriation requests were filed with the National Mining Agency, which has notified the families and visited the properties to assess them (currently pending release). Cerrejón provided timely notification to the families at the start of this process, and we have emphasized that we still prefer direct negotiations.

**Las Casitas:** Forty-seven (47) families have signed relocation agreements out of a total of 64 residing in the village centre and rural area. Out of the 31 families eligible for relocation, agreements have been reached with 23, and 17 of them have already located to the new settlement. Talks are continuing with the remaining resident families, and we are taking steps to acquire the rural properties. In July of 2014, with a prior assessment of the commitments agreed to in contracts with the State, Cerrejón began a process of eviction from the properties that are a priority for mining. The National Mining Agency (ANM, its initials in Spanish) approved the requests, performed the technical visits to the properties, issued the assessments, and will issue the pending expropriation ruling. Cerrejón provided timely notification to the families at the start of this process, and we have emphasized that we still prefer direct negotiations.

**Tamaquito II:** The 31 Tamaquito II families have been at the new settlement since August of 2013. Progress has been made in the implementation process of the production projects, searching for additional water sources, and improving the quality of drinking water. A tender is currently underway for contracting the construction of a pipeline between the new well drilled at the end of 2014 and the water treatment plant. In February of 2015, Cerrejón handed over the title deeds accrediting the community of Tamaquito II as the owner of the 300 hectares they now reside on (the La Liga property and its improvements). Currently, we are supporting their recognition as an indigenous reservation.

**Roundtable with leaders from Roche, Patilla, Chancleta, Las Casitas, and Tamaquito II:** Weekly meetings are still being held (76 sessions to date) with the leaders of the relocated communities, Cerrejón, the Barrancas Municipal Ombudsman. In addition to the education regulation, we are currently working on agreements on consulting for the production projects, house maintenance, and comprehensive solutions for drinking water. In August of 2015, Corpoguajira granted Cerrejón permission to build an uptake point to pipe water from the Ranchería River to the resettlement production projects. This work will be ready by the end of October and will be turned over to the communities to be run as agreed to at the Roundtable.

The program for educational strengthening seeks to impart abilities, knowledge, and skills to cope with poverty and inequality and to favour social inclusion and long-term sustainability. As of September 2015, the program beneficiaries include 109 youths in university studies, 15 children under five years of age in the early childhood program, 15 pre-school students, 119 primary students in the thematic strengthening programs (bilingualism (English), use of information technology, art/culture, and life skills), and 92 secondary school students in the same programs. Twenty-three adults are receiving training in information technology, and 22 students near graduation are receiving vocational advice to decide on their career paths.

In the first half of 2009, the technical consultant Asicom undertook an initial assessment on the standard of living, capability for self-administration, and equity capital of the communities undergoing resettlement. In the second half of 2011, Cerrejón decided to use the poverty measurement methodology adopted by the Colombian government, which includes the multidimensional poverty index generated by the United Nations Development Programme (UNDP) and the University of Oxford. This is a more complete indicator that provides a multidimensional perspective of people living in poverty, thereby allowing clear identification of where strategies and resources should focus in order to improve their standard of living.

In August 2011, this indicator was implemented for the community of Roche with data from the socio-economic baseline provided in 2010 by the Social Capital Group consultant and complementary information from the Codesarrollo Foundation from the community's site of origin. Subsequently, the indicator was measured at the new Roche site. The results reveal a very significant improvement in the standard of living of the resettled community. They have also allowed us to identify significant aspects requiring extra actions aimed at improving the community and its sustainability. Similar measurements are planned for the communities of Patilla, Chancleta, Tamaquito, and Las Casitas prior to and after relocation. Subsequently, each community will be regularly monitored in accordance with this methodology in order to provide a timely ranking of improving trends in the standard of living of each community at its new site.

IMPLEMENTATION STATUS

COMPLETED

Level of completion to be determined depending on new community dialogues

COMPLETED

# The Wayuu - Culture and Employment

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TPR RECOMMENDATIONS

Attempting to reunite the community at Media Luna, at least socially if not physically, should be a priority for the management of social impacts at Carrejón.

CERREJON'S RESPONSE

The Panel's recommendation is supported but clearly also requires the consent and participation of the Wayuu clans involved. Carrejón management will facilitate discussions with the clans to determine their aspirations. In consultation with the community, a support program will be developed for implementation within 6 months.

PROPOSED KEY ACTIONS AND PROJECTS

Develop and implement a home improvement program.

Build a health center.

START DATE

02-Feb-08

01-Mar-08

FINISH DATE

30-Dec-09

30-Dec-08

PROGRESS

In Oct 2015, work concluded on the pilot house. Three community members participated in the construction as labourers. They were trained at the SENA through an agreement with the Carrejón Foundation for Institutional Strengthening. The contractor hired the community to provide meals, which provided support for other community families. The first house is expected to be handed over in the first week of Nov. 2015. Carrejón's Procurement department is reviewing bids to select a contractor to build the remaining 20 houses. This project will benefit 27 families from the communities of Pioure and Pioula. The mayor's office of Uribia provided support with a free construction permit for each house. The community of Kamüsüchiwo'u had requested they be granted part of the land they occupy in the industrial reserve of Puerto Bolívar. Carrejón would still like to review the request jointly with the central government (INCODER and the Ministry of the Interior) before taking a stance. The issue is expected to be revisited after the regional elections in Oct. 2015. Despite a high turnover in the Committee members for environmental oversight, the activities for disclosure and dialogue on the environmental management in Puerto Bolívar are still in place. At the same time, we are examining possible initiatives to implement actions aimed at improving environmental conditions in the communities. The Media Luna communities are still being supplied with 210 m3/weekly of drinking water from the port's desalination plant. Since the declaration of a state of emergency by the mayor of Uribia in April of 2014 (and still active today), we have been delivering a total of 140 m3 of water weekly to 52 communities in Sector IV of the railway line (km 119-143). This support also benefits 850 children at the Kamüsüchiwo'u educational institution, 110 children at the ICBF kindergarten, and the Media Luna healthcare centre. As part of the agreement between Carrejón and Conservation International, several actions were undertaken: a workshop was held on agreements for sustainability, the nutritional standards of Bahía Portete are being monitored, and a professional has been hired to hold an agreement reconciliation exercises to estimate potential productivity in the area.

Both a health center and a nutrition service center were built by August 2009. In recent years we have strengthened the Media Luna health center by enhancing the building, repairing the well, providing water system and elevated tank giving medical equipment and instruments such as the dentist unit that includes required instruments and an electric plant. A Mobile Health Unit was assigned to the area to strengthen promotion and prevention activities, general medicine attention, prebirth care and child development and growth.

**Healthcare:** On August 1 of 2015, the agreement was renewed with the Uribia Hospital to ensure the availability of a doctor for extramural services through the Mobile Unit. This program continues to benefit 49 communities from km 119 of the railway line to Media Luna. Since 2012, 7,206 activities have benefited an estimated 4,800 inhabitants in basic healthcare, promotion and prevention programs, house calls, and referrals to higher-level medical centres. A total of 210 lives have been saved since its launch. In this second half of the year, the visual health program is helping a group of artisans and senior citizens in the Cabo de la Vela sector, improving the quality of life of 52 people.

**Education:** The two training programs are still active: Seven students from Media Luna communities are participating in Carrejón's Educational Excellence Fund, which aids secondary school students in La Guajira in accessing higher education. They receive grants for room and board and academic tutoring. The Institutional Strengthening Program aids students, teachers, and directors of the Kamüsüchiwo'u Ethno-Educational Institute to improve student performance on State tests, promote reading skills, and involve them in vocational orientation activities. Workshops are also held for teachers to apply better tools in the institution's educational and assessment activities. This training includes 12 institution satellite sites.

**Culture and Sports:** Carrejón continues to implement sports program through an instructor that teaches communities neighbouring the port. The weekly theoretical-practical workshops in sports, leadership, and values for children, teenagers, and adults are offered to port and railway communities and at the Kamüsüchiwo'u Ethno-Educational Institute. The 18 sports leaders trained promote competitions in their communities with Carrejón's logistical support. **CULTURE (MUSIC):** training workshops in music continue to be implemented offering 395 children musical methodologies and choral techniques. Carrejón has assigned a teacher to these extra-curricular activities three times a week. **CULTURE (STRENGTHENING TRADITIONS AND CUSTOMS):** We continue to implement training workshops on Wayuu recreational activities (Wayuu arts, games, music, and sports) for 135 youth as part of the program for strengthening their cultural traditions.

Carrejón's intervention in Media Luna goes beyond these two tasks. We have structured an integrated proposal addressing health, education, infrastructure (water, housing) and income generation. Some of the specific components have already been consulted with the communities.

STATUS OF IMPLEMENTATION

BEHIND SCHEDULE

COMPLETED