

September 15, 2017

VAPC 078-17

Mrs Lesley Burdock
Facing Finance
Schonhauser Allee 141
10437 Berlin
Germany

Dear Mrs Burdock,

We have been informed by our shareholders (BHP, Anglo American and Glencore) that information on Cerrejón will be included in your upcoming Facing Finance Dirty Profits report and we have taken the liberty to send to you a formal communication providing information regarding the allegations and concerns mentioned. We hope that this information may be taken into account in the final version of the document that will be available to the public soon.

Cerrejón (Carbones del Cerrejón Limited) is a 30 year old integrated mine, railway and port operation that has been in a permanent journey to enhance performance by implementing leading standards and practices as they are developed. Examples of this are the strong commitment towards workers health and safety, evidenced in the 30-year old Health and Safety Management Program, as well as in environmental protection confirmed by the direct loading of coal at the port since 1985 and the over 25 year land rehabilitation program.

In Cerrejón we are committed to respecting human rights of our workers (employees and contractors) and neighbor communities and we have developed due diligence processes to ensure that our operation does not represent any harm to their rights. We have adopted leading standards such as the UN Guiding Principles on Business and Human Rights, the Voluntary Principles on Security and Human Rights, IFC Performance Standards 1 (impact management), 5 (involuntary resettlements and land acquisition), and 7 (indigenous peoples), among others. Our company makes continuous efforts to positively impact these groups by developing plans and programs focused on enhancing community wellbeing and regional prosperity in a very challenging context.

Our human rights journey has allowed us to define policies and procedures led by our senior management dedicated to constantly enhancing the identification, prevention, and mitigation of impacts, and providing compensation when required. Some examples of this process include:

- Our Human Rights Policy, first drafted in 2005, was adjusted in 2011 to bring it into line with the UN Guiding Principles on Business and Human Rights.
- Two Human Rights Impact Assessments (HRIA) have been carried out since 2010 by independent experts and action plans have been designed and monitored.
- Multiple dialogue sessions with local communities to discuss impacts have been carried out aiming to better understand impacts and enhance mitigation measures.
- We participated in 2010 in the pilot project headed by the former United Nations Special Representative for Business and Human Rights, Professor John Ruggie that led to the establishment of the company's Complaints Office which seeks to address complaints deriving from operational impacts on the human rights of employees, contractors, and communities.
- Strong commitment with the Voluntary Principles on Security and Human Rights since 2005 and implementation of a thorough methodology to ensure that private and public security providers avoid participating in human rights violations.

In recent years, Cerrejón has committed to partnering with La Guajira to build, hand-in-hand with the communities and with the support of the public and private sectors, the capabilities to allow the department to advance economically and socially.

Regarding the specific accusations and concerns we would like to mention the following:

Resettlements

Cerrejón's operation began over 30 years ago. All of the land acquisitions required initially were done following the standards and practices at the time. All of them were carried out based on good-faith offering higher-than-market values at the time. Cerrejón has been implementing IFC standards for involuntary resettlements since 2008 and they are considered a last resort measure. The resettlement of the communities of Roche, Patilla, Chancleta, Las Casitas and Tamaquito II were promoted by Cerrejón to prevent them from being negatively impacted by the operation. The adoption of these standards contributed to more participatory and respectful processes and to a comprehensive identification and management of the impacts generated.

Agreements with 100% of the families eligible for resettlement from these communities have been reached and all of the families are now living at the new sites. The last families to conclude negotiations and relocation came from Las Casitas.

All of the resettlement processes were participatory and allowed for extensive internal reflection and discussion, some processes lasting up to 13 years. Through roundtables, communities selected the new plot where the village would be built, the layout, and house and infrastructure design. Tamaquito, being an indigenous community, selected a different layout for their new village and houses they considered to be culturally appropriate. The other communities selected the type of village and houses they considered best for their own cultural identity. Cerrejón respected both views and decisions.

The compensation was defined in workshops with all the families and it responded to information from the social baseline agreed with them and the specific impacts identified. A robust compensation package was provided which included a new house, access to public services, strengthened education programs, access to university, one hectare of land for every family (and more to some families that derived their income from agricultural or cattle rearing activities), among other.

The resettled communities have had access to water since their relocation, and it's untrue that they have limited water resources at the new site.

- The five resettled communities have access to water from deep wells or through distribution in water tankers during the drought period. The communities have received over 200 litres of water per person per day (double the minimum per person established by the WHO).
- For the communities of Patilla, Chancleta, Roche, and Las Casitas, Cerrejón built an uptake facility that captures Ranchería River water and pipes it to the treatment plant. This water is destined for human consumption and for farming and livestock production projects on common properties. This construction will be operational once the refurbishment to the water treatment plant is concluded allowing it to treat superficial waters, instead of undergprnd water. Meanwhile, the water treatment plant continues to treat the water from the undergroun source providing an average of 205 litres of water per person per day.
- The resettled indigenous community of Tamaquito has three groundwater sources. By community request, we changed the well supplying water for human consumption as the residents prefer the quality of the water from the well built in 2014. The new pipeline was built and provided water for gardening and other household chores while a new water treatment plant was installed. The new plant was required since the initial one had high maintenance costs. The new plant was inaugurated in June 2017 and is currently operational. While the new plant built, Cerrejón provided 33,000 liters of water every week to Tamaquito, by water tankers, for their consumption. Every person from Tamaquito received 126 litres of water per day, more than double of what the WHO has defined as the minimum amount of water per person each day.

The report mentions that Tamaquito II has not been able to preserve it access to land or to medicinal plants. It's important to mention that through the resettlement this community moved from a 10 hectare plot to one with 300 hectares and has additional land outside the village to also develop the agricultural and cattle projects. In particular, Cerrejón has provided support to the preservation of their cultural traditions and to the continuation of the planting and use of medicinal plants.

Roche expropriation process

The statement included in the report on the return of most Roche families to the original village in early 2016 is not true. All of the 25 Roche families are currently living at the new site and benefitting from the post resettlement programs. Only one family from Roche was expropriated on February 24, 2016. As recognized by Colombian law and IFC standard, expropriation is viable when no agreements have been reached. This process was considered a last resort measure and multiple efforts were taken to reach a negotiated agreement to avoid this situation.

The legal proceedings were led by the Barrancas judge, with representatives from the Public Ombudsman, the Colombian Institute of Family Welfare, and the Barrancas Municipal Ombudsman. As usual in this type of procedures, the judge requested the presence of ESMAD (Mobile Anti-Disturbance Squadron) for security and to ensure compliance with the proceedings. Cerrejón publicly regretted that the events led to minor injuries to two members of neighbouring communities, one member of the National Police, and a Cerrejón official, as well as the arrest of four people, including a foreign journalist who were present. Cerrejón requested that the authorities carry out an independent investigation of the events.

The family moved to the house they had previously received at the new Roche. However, the family did not receive the additional land offered by the company for him to continue with his cattle rearing activities and did not collect the animals that Cerrejón moved for him to a new plot. As requested by the Judge, the money that resulted from selling the animals was deposited in a bank and is available for the family to receive at any time.

Tabaco

Between 1997 and 1999 successful land negotiations went ahead with 96% of the community of Tabaco. However, no progress was made with six families and an expropriation process went ahead in 2001. In May 2002, the Supreme Court of Colombia filed a Legal Protection Act (Tutela) requesting that the Municipality Hatonuevo rebuild the community of Tabaco.

Although the municipality has not met its obligation, Cerrejón has complied with providing additional compensation to families, buying the plot selected by the community where the town will be built and is currently working hand in hand with the community to design the community center that will be built by Cerrejón. The current local administration is taking positive steps towards the fulfilment of their commitments by defining the census of the possible communities that would live at the site. In addition to this Cerrejón has provided support to social and income generation programs that benefit the Tabaco families.

Use of water by Cerrejón

Regarding the accusation of impacts caused by the mine to regional water availability we would like to mention that La Guajira is a traditional semi-arid area with a geological water deficit. The middle and upper La Guajira are separated by a tectonic plate which splits these areas into two different geological zones that do not share underground water flow. In the middle La Guajira region, where Cerrejón is located, the average precipitation is 980 mm of rainwater per year, while the combined evapotranspiration (ETP) is 2000 mm per year. Between 2013 and 2015, La Guajira experienced a progressive and severe drought and El Niño Phenomenon (2015) which increased the difficulty in access to water for communities in the department, also affecting the rest of the country.

Since the beginning of the operation, Cerrejón has implemented an Environmental Management Plan that includes strict control measures aimed at the prevention of possible operational impacts on bodies of water at the Mine and at Puerto Bolívar. This plan identifies strategic consumption points and sets goals for controlled use. 93% of water captured by Cerrejón is low quality and only 7% is high quality, taken from the Ranchería River according to permits granted by environmental authorities and mainly used for human consumption. Most of the water we use in the operation is for environmental prevention measures such as controlling dust during mining activities and wetting the roads. The water used for this purpose is low quality water (from the coal seams and rainwater) and it's not apt for human or animal consumption or for crop irrigation. This water is stored in mining areas and reservoirs and used during the dry season for dust control. Our goal is to replace the use of high-quality water for low-quality water whenever possible.

In 2016 Cerrejón used only 11.8% of the total water from the Ranchería River granted by the regional environmental agency, Corpoguajira.

Access to water from the Ranchería river

Regarding the accusation that the water from El Cercado is used by Cerrejón, impeding local communities from accessing water we would like to highlight that this dam is a project from the National Government and Cerrejón has not participated in its construction or administration or has any privileged benefit from it. It is widely known that this public project has not been completed or has fulfilled the objective of providing water to nine local aqueducts due to unfinished works and infrastructure.

Cerrejón only uses 1.75% of the water in the river (mainly for human consumption), while 92.5% of the water taken from the river is used for agriculture and livestock, 5.7% for services or domestic use. Therefore, today, most of the water released by this dam to the Ranchería River is used by large farmlands before it even enters Cerrejón property. Due to this situation and the severe drought in past years, Cerrejón has been capturing water from underground wells in the river's alluvial aquifer, as authorized by Corpoguajira, for the consumption of our employees, contractors, and families.

It's also important to note that the Ranchería River is the most important river in the region but it's not the only source of superficial water in La Guajira. There are smaller creeks that are tributary to the Ranchería River. The Ranchería River has not disappeared; in fact it has more than 40 tributaries and other basins.

We hope you find this information useful. Please let us know if additional information or other clarifications are required.

Sincerely,

Lina Echeverri
Vice-President of Public Affairs and Communications