

August 19, 2019

Dear Business and Human Rights Resource Center,

Vale appreciates the opportunity to respond to three reports by the Environmental Justice Atlas on items concerning human rights impacts in Brazil, Indonesia, and New Caledonia, which have been brought to the company's attention through the Business & Human Rights Resource Center, as follows:

["Karonsi'e Dongi people and Vale mine in Sorowako, Sulawesi, Indonesia"](#) - March 20, 2019

["Rhéébù Nùù group and Vale mining, New Caledonia"](#) - May 02, 2019

["Onça Puma nickel mining project in Ourilândia do Norte, Pará, Brazil"](#) - April 03, 2019

Indigenous peoples have a profound and special connection with land and water, which are linked to their physical, spiritual, cultural, and economic well-being. They also carry valuable traditional knowledge and experience in managing the environment sustainably.

Mining and metals projects can generate significant impacts on local communities, both positive and negative. Vale follows guidelines throughout its operations and projects to establish relationships with potentially impacted indigenous peoples. The company also abides by international commitments and references related to indigenous issues, such as the position statement of the International Council on Mining and Metals (ICMM) on Mining and Indigenous Peoples (2014), the ILO 169 Convention, and the United Nations Declaration on the Rights of Indigenous Peoples.

Based on the above premises, Vale will address below the issues brought up in three cases in the Business and Human Rights Resource Center website on Indonesia, New Caledonia and Onça Puma, Brazil.

Indonesia

By way of background, Vale states that:

- a. In 1968, PT Vale Indonesia Tbk (formerly known as PT International Nickel Indonesia or PT Inco - "PTVI") signed a Contract of Work ("COW") with the Government of Indonesia which allows PTVI to conduct mining activities, among others, in Sorowako, South Sulawesi.
- b. For the purpose of using certain land area in Sorowako for its infrastructures, PTVI submitted an application to the Government in 1973. Following such application, PTVI paid compensation in 1975 to the entitled land owners in accordance with a Decree which was issued by the Regional Government based on appraisals conducted by a land compensation committee formed by the Regional Government.
- c. In 1976, the Karonsi'e Dongi people gradually came to Sorowako claiming that they previously inhabited Sorowako and its surrounding area since before the 1950s, and, because of rebels seeking to establish an Islamic state following Indonesia's independence called DI/TII they alleged that they were forced to leave their home. Following their return in 1977, PTVI paid additional compensation to the Karonsi'e Dongi people.
- d. Vale works very closely with local government to identify and address legitimate indigenous issues. After a long process and several discussions and correspondence with the Karonsi'e Dongi people, certain human rights organizations and the Regional/Local Government, the

local government issued a Decree on the relocation of the Karonsi'e Dongi community. In April 2008, an agreement was reached between the Ministry of Public Housing, PTVI, and the Government of Luwu Timur to construct a settlement area in Ledu-Ledu village, Wasuponda sub-district. All parties contributed to build the area.

- e. At the time, some Karonsi'e Dongi people chose not to relocate and built huts along the outskirts of PTVI's Contract of Work (COW) area. Today, the community grows bigger. The majority of the community is no longer comprised of descendants of Karonsi'e Dongi. When the community was informally established, it obtained electricity by making an improper and illegal connection to PTVI's power lines. At the time, PTVI warned residents about the risk of electricity overload and the potential safety issues but the warnings went unheeded. This improper and illegal connection caused an overload to PTVI's "disconnecting switch" resulting in an explosion, connection loss and certain other accidents. Due to these accidents, the electricity connection made by the Karonsi'e Dongi people who stayed on the outskirts of PTVI's COW area is now no longer connected to PTVI's power line.

In relation to the above background, the following are PTVI's responses and current position related to the points raised by the Environmental Justice:

1. PTVI is in good faith willing to settle the issue of the Karonsi'e Dongi people. Our efforts should be well coordinated with local government to optimize the outcomes.
2. PTVI is committed to improve certain facilities for the residential area in Ledu-Ledu village, Wasuponda. These commitments include procurement of water supply, reparation of access road, renovation of churches and implementation of community development and empowerment programs where PTVI increases the amount of area to be developed by the local farmers.
3. With respect to the electricity supply to the Karonsi'e Dongi community in Sorowako, PTVI affirms that it never disconnected the electricity. As mentioned in the background, the connection that was made improperly by the community caused an overload to PTVI's "disconnecting switch" resulting in an explosion, connection loss and certain other accidents.
4. With respect to the community's request to reconnect the electricity:
 - (i) The area where Karonsi'e Dongi people's huts are located is not intended to be a residential area as determined in the decrees issued by the Regional Government in relation to the relocation of Karonsi'e Dongi people to Ledu-Ledu village.
 - (ii) It is not possible for PTVI to provide electricity supply to other parties as PTVI only holds an "Operation License" or "*Izin Operasi*" which only allows PTVI to generate electricity for its own use. Therefore, by law, PTVI is not allowed to provide electricity to the public.
 - (iii) In principle, it is the obligation of local government through PT Perusahaan Listrik Negara (Persero) (PLN) as the state-owned company that is in charge of electricity supply in Indonesia to supply electricity to the public, not PTVI.

New Caledonia

Vale Nouvelle-Calédonie (VALE NC) clarifies that the acid leaks mentioned in the Environmental Justice Atlas occurred in 2009 and 2014; not in the years of 2010 and 2012. Furthermore, the impacts to the local freshwater ecosystem caused by both leaks were reversed. The VALE NC project has performed a comprehensive Environmental Impact Assessment (hereafter the "EIA") as required by international regulation and submitted it to third-party reviews (by INERIS, CEREGE and ARMINES – for more information please see annex 1). All major impacts were identified and subject to elimination/mitigation measures. There were no impacts associated with the presence of mercury in either the HPAL process or the coal-fired Power Plant (operated by the energy supplier ENERCAL both for the plant and for public distribution - annex 1). The EIA was validated by all stakeholders, including NGOs and Rheebeu Nuu.

Regarding the hiring of workers for the construction phase of the project, VALE NC hired all available members of the local labor force before importing Filipino workers to meet the construction needs. Moreover, for several years, the NGO Rheebeu Nuu has played a significant role in managing and administering the Pact agreement signed between themselves, Vale NC, and the Customary Authority (hereafter the "PACT" in Annex 1). Today, Rheebeu Nuu holds the presidency of the three structures that comprise the Pact. This represents an annual investment of more than US\$ 3 million per year for VALE NC supporting environmental, social, and cultural projects in the communities as well as the training of youth.

VALE NC has also employed for years several hundred-people from the local communities. In addition, more than 10 companies were founded by the communities with the support of VALE NC to supply the mine and the plant. We have also established a permanent dialogue with the communities and the tribal authorities of New Caledonia.

Regarding dams, VALE NC is indeed concerned with dam safety, and has been since well before the dam breach in Brumadinho, Minas Gerais, Brazil, which occurred on January 25, 2019. Vale has further heightened dam safety governance in all its operations, including New Caledonia.

In New Caledonia, a dam safety report is submitted to the French regulator and inspections are conducted under the governance of the High Dam Committee of the French state. Every year, an inspection is performed by French and local authorities (DIMENC). After the Brumadinho dam breach, VALE NC launched an internal dam safety audit as a precautionary measure.

More recently, VALE NC confirmed a US\$ 600 million investment for the period 2019-2022 to finance the Lucy project, which will replace wet residues with dry stacked residues using a filter press technology. VALE NC has been developing this technology for the past three years. It promises to ensure an additional 20 years of activity and allow VALE NC to safely declassify its existing dam.

VALE NC has operated a pilot dewatering plant since December 2017, reinforcing the fact that the decision to change the technology was taken before the Brumadinho dam breach. This technology will allow VALE NC to declassify the Kwe dam. VALE NC also decided to finance an important program of maintenance to make its operation safe and preserve the integrity of the plant. Construction of a solar park (30 MW) to provide a sustainable electricity supply is expected in 2021.

Local communities are also involved in and benefitting from the Lucy project by being awarded a significant part of the bid for earth works, road construction and more.

Onça Puma

Since the start of the Carajás Project in the 1980s, Vale has maintained a long-term relationship with the Xikrin People, including the transfer of funds and provision of complementary healthcare.

Vale's Onça Puma mine, in Ourilândia do Norte (in the state of Pará, Brazil), is duly licensed by the Secretariat of Environment and Sustainability of the state of Pará (Semas), meeting all the conditions established by Brazil's Environmental Agency and Brazil's National Indigenous Foundation (Funai).

In November 2005, Vale presented the final report of the Xikrin do Cateté ethnoecological study to Funai, foundation responsible for knowing, evaluating, and raising issues involving indigenous peoples. Funai delivered its evaluation on the report five years later. During this five-year period, Vale moved ahead with the performance of some mitigation actions – such as water well drilling in the three villages, as a demonstration the company's good faith, as well as its intention of carrying out actions that benefited the Xikrin while the studies were being analyzed.

Vale clarifies that for years now, it has attempted to comply with the actions outlined in the Environmental Basic Plan (PBA), which focuses on environmental programs, and is currently being executed up until the area border of the Xikrin indigenous territory of Cateté. This is because the indigenous people continue to deny Vale access to their territory, despite the fact that in 2015 the company managed to come to an agreement with the indigenous people and the Federal Public Prosecutor (Ministério Público Federal – MPF) regarding entering the territory to perform the environmental control actions. This agreement is officially documented in the meeting minutes, duly signed by the parties who participated in the meeting. Vale has also proposed to the Federal Public Prosecutor (MPF) that it could hire a technician to accompany, along with a representative of the Xikrin, the execution of the PBA, but the company has not received an answer from the MPF.

As noted above, Vale has faced resistance by the indigenous peoples, who demand financial resources instead of the execution of the environmental programs. Accessing the indigenous territory is paramount to implement the actions determined by the PBA, already approved by Funai. Vale remains open to dialogue with the Xikrin people and reiterates that it will continue awaiting their authorization, respecting the indigenous peoples' culture and rights.

It is important to note that Funai does not recommend the direct transfer of financial resources to indigenous peoples, but rather supports the structuring of self-sustainable projects. Corroborating this approach, since 2005, the MPF has acknowledged that the Xikrin are engaging in a rather consumerist lifestyle applying the financial resources received in actions that are not linked to self-sustainable projects.

Regarding the MPF Civil Action filed in 2012, it was prompted by the fact that Vale did not comply with one of the conditionings (n.16) of the Prior Environmental License (LP). This conditioning determined the need for an action plan to mitigate the enterprise's impacts on its neighboring indigenous territories, including the environmental and economic losses faced by the indigenous peoples in the case of the non-compliance of this condition. Since Vale did not implement the proposed actions in the Indigenous Component Study (ECI - Estudo do Componente Indígena) the MPF determined the shutdown of Onça Puma or the payment of monthly funds until the effective compliance with the conditioning.

As a result of the 2015 Onça Puma Public Civil Action – on the grounds that Onça Puma was contaminating the Cateté River – reports, from seven experts appointed by the Federal Judge of Redenção, demonstrated a complete lack of connection between Vale's activities and the alleged contamination of the Cateté River. The professionals who produced the reports were from several technical fields of expertise, namely metallurgical, civil, and forestry engineering, agronomy, geology, limnology/Biology (Ichthyofauna) and social assistance. Therefore, despite the allegation of environmental impacts, experts concluded that there is no causality link between the activities developed by Vale's enterprise and the supposed contamination of the water course that separates the company and the indigenous land in question. On the contrary, these reports highlighted the positive effects that the enterprise had brought to its surrounding communities, including the Xikrin.

As of June 2019, the mining and nickel processing have come to a halt as per the latest judicial order.

Vale currently gives approximately R\$ 14 million a year to the Xikrin due to another lawsuit (Ferro Carajás lawsuit), which is on-going. Up until the second quarter of 2019, the total amount transferred to the indigenous population, to fulfill this action, is approximately R\$ 120 million.

Additionally, because of the Onça Puma Public Civil Action, almost R\$ 85 million have been deposited in judicial account since 2015. The application of these resources was defined in the Conduct Adjustment Term (TAC) signed between the Federal Public Prosecutor and the associations that represent the Xikrin and the Kayapó. Some of this has already been accessed by the indigenous people, with approximately R\$ 45 million by Xikrin and approximately R\$ 19 million by Kayapó. It should be stressed that, since Vale is not a party to the Conduct Adjustment Term, it is not able to know if the appeal is being executed and / or if the purpose of the term has been fulfilled.

Moreover, Vale has been depositing, monthly, in judicial account approximately R\$ 2 million, and a court order has suspended the indigenous peoples to access the funds due to several inconsistencies, among them the lack of accountability. There is also a judicial order requesting that the Xikrin return R\$ 10 million, erroneously raised by the Xikrin and their lawyer.

It is worth mentioning that, in relation to the Kayapó People, the Environmental Basic Plan (PBA) of the Indigenous Component at the Onça Puma operation is being fulfilled by the company, as approved by the licensing and indigenous parties.

Socio-economic impacts of mining in Onça Puma

More than 1,200 people are contracted directly in the region where Vale operates, with more than 700 direct and 550 permanent contracted employees. This employment helps the local economy. In 2018 alone, the company purchased goods amounting to R\$ 300 million from local suppliers in Ourilândia.

The Onça Puma shutdown also affects income sources and total salaries of approximately R\$ 100 million (reference 2018) that may stop circulating financially in the city and the surrounding region. This amount includes salaries and benefits, such as food vouchers.

It is worth noting that Vale, through its Onça Puma operation, generated R\$ 180 million, between 2015 to 2018, including, among others, ISS (Services Tax) and CFEM (Financial Compensation for the Exploration of Mineral Resources). In 2018, the ISS generated by Vale in

the city of Ourilândia do Norte, for example, was R\$ 2.8 million and R\$ 776 thousand for São Félix do Xingu, which also experiences the positive effects of Vale's activity in the region.

Annex 1

The EIA of VALE NC was initiated in the early 1990s with a completed baseline environmental study based on the latest international methods and standards. From 2002-2003, technical experts INERIS were entrusted to validate and/or improve technical options proposed by VALE NC. In 2006, the New Caledonia South Province authority mandated CEREGE to review the marine outfall system before its eventual validation. Similarly, in 2007, the French Ministry of Environment appointed Armines to conduct a technical review of tailings management.

The hydrometallurgical process at VALE NC uses water from Yate Lake. Most of the water is used in a closed circuit for the process. One part is discharged at sea, after treatment through a 24-km submarine pipe equipped with a diffuser. Before release, the treated effluent is controlled and monitored continuously by VALE NC and other institutions and NGOs to ensure compliance with legal norms.

PRONY Energy (PE), a subsidiary of ENERCAL owns and operates a 100 MW coal fired power plant. PE provides 50 MW of energy to the VALE NC plant and 50 MW to the NC domestic market. As owner, PE takes full responsibility for monitoring and reporting on its environmental performance, notably gaseous emissions, to proper authorities in conformance with applicable regulations.

With the signature of the PACT agreement in 2008, VALE NC invests about US\$ 3 million per year over a 30-year period to fund local initiatives to develop jobs and promote activities in the tribes of the Djubea Kaponé tribal area. This includes facilitating and implementing a high standard of environmental control by the communities. VALE NC has established a permanent dialogue with Rheebeu Nuu and other NGOs. In fact, Rheebeu Nuu currently occupies the presidency of the PACT institutions.

For years VALE NC has employed several hundred-local people and supported tribal companies created by the Kanak people in the south of New Caledonia. Moreover, a permanent dialogue has also been established with the tribal authorities.