

Bogotá, 29 January 2019

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Anne Harris, Isobel Tarr and Scarlet Hall, Coal Action Network, UK
Avi Chomsky, North Shore Colombia Solidarity Committee, Massachusetts, USA
Emma Banks, Vanderbilt University, Tennessee, USA
Giulia Franchi, Re: Common, Italy
Ingrid Navarrett, AG Bergbau und Menschenrechte in Kolumbien - Berlin, Germany
Leonardo González, Indepaz, Colombia
Richard Solly, Colombia Solidarity Campaign and London Mining Network, UK
Seb Ordonez, War on Want, UK
Sian Cowman, Latin America Solidarity Centre, Ireland
Stephan Suhner, Arbeitsgruppe Schweiz Kolumbien, Switzerland
Sue Willman, Deighton Pierce Glynn, UK

Subject: Response from Cerrejón to the Declaration in Support of the Roche Community, La Guajira, Colombia

Dear all,

We thank you for your interest in the situation involving the Roche Community, and are convinced that the work of activists and NGOs who are genuinely concerned with the well-being of the communities contributes to creating spaces for dialogue that help to resolve conflicts in complex scenarios, ones in which the interests of the different parties involved appear to be difficult to reconcile.

Although we appreciate your interest and share various of your concerns, we think the Declaration contains some inaccuracies and also lacks details on the facts. As such, we feel it is important to share information that allows a complete, documented and balanced analysis to be made.

The Resettlement Process with the Roche Community

Cerrejón has participated in the resettlement process with Roche, and with the other communities, in a constructive spirit and in good faith, but in spite of its complexity we do not share the opinion that this process has failed. We admit that these processes are difficult, and both the company and the communities have had to learn along the way while identifying opportunities for improvement.

The families in Roche received compensations and indemnifications that included providing land, according to the varied effects on each family, on which they have the possibility to continue their farming activities. In fact, various families have done just this. We know some of the programs have had problems, mainly with access to water, a situation we have been working on and which has had satisfactory results for both quality and quantity of water available. Nevertheless, we understand that, independently of the agreed upon compensations and support, the degree of success depends on how the individuals and families adapt to the new living conditions, and we know that it is easier for some families than for others. We will continue to provide support to the families so that the projects they decide to take on can have the greatest possible success.

Regarding the housing situation, on various occasions we have acknowledged that, in fact, some of the homes in the new villages have shown different types of damage of varying complexity, which have required maintenance or repair. We have





reached agreements with the families so that they, as they expressly prefer, can do the repairs themselves. This method has provided results, and currently of the 15 homes in Roche that needed repairs, 11 have already been fixed and four are in-progress.

Consultation with the Roche Community Underway

Cerrejón has respected the judicial decision from the Council of State (December 2016) who, based on the principle of equality, ordered a consultation process to be done for the purpose of extending the resettlement benefits already received by the 25 families settled in New Roche to the family groups living in the village who negotiated their property and improvements with the company between 1997 and 10 June 2003.

The consultation process was put underway in its different phases and with development of the methodological route agreed by the community and the company under coordination from the Ministry of the Interior and assistance from public civil servants such as the Barrancas City Council, the Attorney General's Office, the Government of La Guajira and the Official Representative and the Municipal Ombudsman from Barrancas, among others. Likewise, the process had the necessary logistics in hopes of obtaining participation from the largest number of community members as possible and advice from their legal representative, which in fact happened.

The Administrative Contentious Court of La Guajira, having the responsibility to verify fulfilment of the ruling from the Council of State, accepted the criteria defined by the Council of State to establish the list of beneficiaries from the consultation, which are:

1. To have been a settler in Old Roche.
2. To have had the right to property or possession of plots or land that formed part of Old Roche.
3. To have sold the land or ceded ownership rights of same to Cerrejón, whether or not with improvements, before 10 June 2003.

Additionally, the Court recommended using sources recognized by the parties or municipal and departmental census reports from the specific time period, should the mentioned criteria not prove sufficient to establish the list of beneficiaries.

On 3 March 2018, the consultation meeting was held in the Formulation of Agreements stage, where various members of the community actively intervened and there was massive attendance on their part. At this meeting, the parties agreed on two elements to determine who were settlers in Old Roche between 1997 and 2003: i) Map of Roche from 1997 made by the Secretary of Planning from the municipality of Barrancas; ii) List from 1996 from the Roche Community Action Council. Likewise, work groups were arranged between the parties (Roche Ancestral Community Council and Cerrejón) for the purpose of advancing in the identification of those who could benefit from the consultation.

As a result of the application of the aforementioned criteria, and after various month of work between the company and representatives from the Roche Ancestral Community Council, 33 families made up of 236 people were identified as beneficiaries of the consultation. It is worth mentioning that the result obtained from applying this criteria coincides with information contained in the Municipality of Barrancas Development Plan incorporated in Municipal Agreement No. 024 from 2001 in which it is established that the number of people inhabiting the village of Roche was 93 people from different age groups and the number of homes was 26, as opposed to the 33 defined as the basis in the criteria applied in the previously mentioned judicial rulings.

Nevertheless, in spite of the advances achieved, internal conflicts arose during the final phases of the consultation among members of the Roche Black Afro-descendent Community Council and its legal representative, a situation that prevented



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reaching an agreement. For this reason, in the session on 19 December 2018, the Ministry of the Interior officially protocolized the consultation without an agreement.

We understand that, with this result, the expectations of many families who hoped to gain access to the compensations and indemnifications have not been met. Additionally, we wish to note that the interests and situation of the settlers from the old village are not homogenous, and many settlers have rejected the agreement reached with the Ancestral Council, seeking that all those who express being a member of the Roche Community be compensated, even if they do not meet the criteria established by the Council of State

The events of January 16

Cerrejón is aware of the discomfort that this situation has created among the 33 eligible families and their members, as well as with the rest of the petitioning families, and knows that internal discrepancies exist among the community about how to continue with the process.

This complex situation gave rise to the demonstrations on January 16 of this year, when nearly 50 people occupied land belonging to Cerrejón, blocked the path for passers-by and vehicles and impeded employees from leaving after their work day. The community requested mediation from the Government in La Guajira to open a space for dialogue, a proposal that Cerrejón accepted, and then left the site in order to move forward with conversations to express their disagreements and claims with the officials named by the Government. These officials have called meetings to review the situation with the hope of finding common solutions. The Barrancas Mayor's Office has also been present at these meetings to serve as a guarantee of respectful dialogue, and so that there is dialogue with the necessary national authorities.

At Cerrejón we respect the law and international standards for resettlements, and our relationship with the communities is always based on good faith. In particular, we participate in the consultation meetings with the hope of reaching an agreement based on objective foundations. However, we strongly reject unlawful behaviour and believe that respect for others is also a duty of the community members.

We acknowledge that retroactive or post-consultation processes involve significant challenges, both for the community and for the company, and we are conscious that many families want to benefit from the same compensations the company has given to the families who have already been resettled.

We also understand and appreciate the interest you have all shown for the well-being of the communities in this department, but we hope you understand that these processes must be subject to clear rules for everyone and that, in this specific case, the Ancestral Council, recognized by the community as the entity that represents them, did indeed reach an agreement that was unfortunately not recognized by many.

At Cerrejón we hope to be able to continue this negotiation in the spaces that open up through mediation from the Governor, and to reach agreements that make it easier for all those involved to coexist together.

Sincerely,

Lina Echeverri

Vice President of Public Affairs and Communications