

Vattenfall’s Efforts on Coal Supply Chain Responsibility

Human Rights Risk Assessment in Colombia
– update September 2019

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1. Introduction

In March 2017, Vattenfall conducted an on-site Human Rights Risk Assessment (HRRR) to identify human rights risks through our coal procurement activities in Colombia. This is the 3rd update on how we work with Colombian mining companies Cerrejón, Colombian Natural Resources, Drummond and Prodeco and other stakeholders towards improving conditions on the ground.

2. What Happened since our Last Update

Since our last update in January 2019, we have put most of our efforts in continuing to align the recommendations of our Human Rights Risk Assessment with the assessment program of the industry initiative Bettercoal. Vattenfall is a founding member of Bettercoal using it as an instrument in our due diligence. By doing this, we aim to avoid a duplication of efforts for the mining companies and to increase our leverage on the mining companies. As one milestone since our last update, the first bi-annual call of Bettercoal with Cerrejón has taken place. In this call, the Vattenfall recommendations were addressed as well.

In 2018 and 2019, we have sourced less coal from Colombia than before both in absolute and relative volume compared to other countries we source from. Although we will continue working with Colombian stakeholders to improve the situation there, a smaller sourcing volume reduces our negotiation power when discussing CSR issues with the mining companies. Thus, allying with other European coal consumers to push for improvements has become more important than ever.

Bettercoal's assessment program in Colombia has continued with Drummond entering the second assessment cycle. Unfortunately, Colombian Natural Resources has refused to participate in the assessment process of Bettercoal. This is a concern to us and we, together with Bettercoal, continue to work on this matter.

2.1. Progress of Bettercoal in Colombia

The Bettercoal Colombia Working Group (CWG) was set up in November 2018. It provides a platform to facilitate the dialogue between Bettercoal, its members and mining companies. The group is currently chaired by Uniper with Vattenfall, Enel, Engie, ESB and RWE participating in this group.

Since the creation of the CWG, its members have met in person once a month. We have used the time to develop a working program for the CWG, align actions with the Vattenfall report and gain latest insights on recent political developments in Colombia, the peace deal and other issues such as the ongoing violence and death threats. The working plan is available on the Bettercoal website¹.

The working plan has been further developed into concrete actions. These draft actions will be subject to consultation soon within Bettercoal and with external stakeholders, subject to prior review by Bettercoal's Technical Advisory Committee. We hope to have the program approved by all stakeholders soon. Once final, Bettercoal will publish the actions on its website.

In the meantime, the CWG had conversations with all Bettercoal assessors involved in assessments of Colombian suppliers to better understand and discuss the findings of the site assessments at Cerrejón, Prodeco and Drummond. High level reports of these assessments were published on the website of Bettercoal². The next step is to hold individual calls with the mining companies twice a year to check progress against the assessors' recommendations.

1. https://bettercoal.org/wp-content/uploads/2019/06/Bettercoal_Colombia-Working-Group_Working-Plan-2019.pdf

2. <https://bettercoal.org/resources/>

To date, the first bi-annual call on the Continuous Improvement Plan that has taken place was with Cerrejón. In this call, we had the opportunity to get an update on the progress against the agreed actions and obtain more information with regards to recent developments. Topics included: working conditions, water monitoring, reporting to authorities, protection of biodiversity, Bruno creek deviation, current situation of Tabaco community and community engagement, support of education and development of local expertise at municipal level, and community-based monitoring mechanisms.

The CWG is currently scheduling follow-up calls with Prodeco and Drummond in September and October 2019 respectively.

2.2. Status of Action Plans with Mining Companies

Our ambition has been to merge our actions plans (following our HRRRA) with the Continuous Improvements Plans of Bettercoal (following their site assessments).

For **Prodeco** and **Cerrejón** we have succeeded to work with one single action plan per company. We agreed on an individual action plan per company following the March 2017 visit. In 2018, both companies participated in Bettercoal site assessments. Since November 2018, the Bettercoal CWG has worked to develop an action plan that takes into consideration our recommendations and Bettercoal's Continuous Improvement Plans in one single action plan.

Colombia Natural Resources has neither agreed to be part of the Bettercoal assessment procedure nor settled on an individual action plan with Vattenfall yet. We are concerned about this situation and are discussing internally and within Bettercoal on the best strategy to engage with Colombia Natural Resources and its owners. Colombia Natural Resources is partly owned by Murray Energy.

For **Drummond** we fed in our HRRRA recommendations into the recent site-assessment at Drummond and the next step is to go through the Continuous Improvement Plan together with the assessors and Drummond within Bettercoal's CWG for Colombia. We will discuss the findings of the site-assessment and the Continuous Improvement Plan internally at our Responsible Sourcing Board

2.3. Developments in Colombia and Stakeholder Alignment

Vattenfall is in regular contact with organisations such as CREER, PAX, Forum Syd, or Urgewald to stay up to date on latest developments in Colombia. From our perspective, we have seen positive developments and actions from mining companies recently that we had not seen a couple of years ago. However, there are also setbacks in some areas.

Since 2017, CREER, has run the “Building Trust in Cesar” initiative with the support of Prodeco and Drummond. The aim is to facilitate a process of trust building between the different actors in Cesar. During phase one of the project, many positive steps are reportedly achieved:

- Roadmap for the construction of agreements: capacity building with all actors to remove barriers for trust and dialogue. Organizing 30 workshops with actors (communities, companies and authorities) in the five mining municipalities.
- Commitment of actors to the roadmap: with the financial support of the embassy of the Netherlands and with the participation of the three large mining companies in the region (Prodeco, Colombian Natural Resources and Drummond. The latter also made the decision to provide economic support for capacity development), Government of Cesar, Ministry of Defence, Ministry of Interior Affairs, and organizations like the National Association of Tenant Farmers (ANUC in Spanish), Farmers Association of the Serranía del Perijá (ASOPERIJÁ in Spanish), victims organizations, ethnic groups and others.
- Start of the joint work for the protection of social leaders: mapping of actors, roles and responsibilities as well as the identification of threats, institutional coverage and response capacity to threats. This has resulted in risk maps, a prevention mechanism discussed with the armed forces, a self-protection manual, and a workshop with 80 social leaders and the participation of the National Protection Unit.
- Joint declaration of mining companies: signing of the Declaration pro Life to reject threats against social leaders in June 2019³.
- Development of a protocol for companies on how to respond to threats against union leaders: document adopted by the mining companies that defines step by step the internal and external actions that will be undertaken in case of any threats⁴.
- Collective action of mining companies against threats against union leaders: when union leaders received threats, mining companies issued a joint statement rejecting these threats, activated their internal protocol with alerts to the authorities and developed follow-up activities⁵.
- Production of a ‘Building Trust’ documentary⁶: the documentary shows the experience in Cesar’s mining region so far, the way in which the different actors explored the barriers and opportunities for the construction of trust in their territory.

3. For more information see: <https://www.creer-ihrb.org/lideresydefensores>

4. Among others: PAX in Colombia (<https://paxencolombia.org/empresas-mineras-se-pronuncian-concertadamente-contras-amenazas-a-lideres-sociales/>) and Business and Human Rights Resource Center (<https://mailchi.mp/business-humanrights.org/actualizacin-semanal-colombia-empresas-de-carbn-rechazan-amenazas-a-defensores-honduras-defensores-detenidos-arbitrariamente-otras-noticias?e=%5bUNIQID>)

5. <http://www.drummondlttd.com/joint-press-release-from-coal-exporting-companies-against-threats/?lang=en>

6. <https://www.creer-ihrb.org/documental-cesar>

The CREER project enters into phase two now and the Bettercoal CWG is considering how to support it.

Unfortunately, death threats against civil right defenders have increased in La Guajira. Cerrejón has issued several statements condemning these threats⁷. In the Colombia Working Group, we discussed with Cerrejón the possibility of working with CREER to implement an early warning monitoring mechanism. This is currently being evaluated.

Drummond and the Unions. Drummond has undergone a process of renewing the Union agreements and has reached labour agreements with eight out of nine Unions. During this period, the CWG received letters of complaint from the Unions Sintradem and and the international NGO IndustriALL⁸ that the company had not respected Union rights⁹. The CWG engaged with Drummond that provided their view on the issue which was shared with IndustriALL and we are awaiting their answer. We monitor this situation and will continue to ask Drummond, via Bettercoal, to continue the dialogue with the Labour Unions in line with the Colombian legal system.

2.4. Next Steps

- Ensure that the action plan of the Bettercoal Colombia Working Group for Colombia is approved soon
- Schedule calls with Drummond and Prodeco through the Bettercoal Colombia Working Group to discuss the Continuous Improvement Plans
- Continue cooperation with Bettercoal to have a site-assessment for Colombian Natural Resources fixed to start discussion on an action plan

7. <https://www.cerrejon.com/index.php/media/?lang=en>

8. http://www.industrialall-union.org/sites/default/files/uploads/documents/2019/COLOMBIA/industrialall_global_union_calls_on_bettercoal_to_ensure_that_drummond_limited_colombia_respects_the_labour_laws_of_colombia_17-05-20192.pdf

9. In 2018, a Colombian court ruling asked Drummond to recognize the union ASED and imposed a substantial fine. The penalty was imposed for delaying negotiations with the union. The Ministry of Labor sanctioned with 683 million Colombian Pesos to Drummond considering that it has delayed negotiating a list of demands with the Trade Union Association of Employees of the company. Through Resolution 393-18, the Ministry states that "it is clear that Drummond Ltd. has sat down to negotiate with the union; but in the plenary it is proven that there has been a delay on the part of the administration, violating the Right to Negotiate". To our knowledge, Drummond has appealed this decision and has not paid the fine yet. For more information see: <https://www.elheraldo.co/cesar/ministerio-de-trabajo-multa-drummond-con-683-millones-578408>