

Vattenfall's efforts on coal supply chain responsibility

Human Rights Risk Assessment in Colombia
– update July 2018

Contents

1. Introduction	2
2. What happened since publication of the report	3
2.1. Alignment with Bettercoal	3
2.2. Follow-up visit to Colombia	3
2.3. Status of action plans with mining companies	4
2.4. Main developments in Colombia	4
2.5. Stakeholder alignment	5
3. Next steps	6



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1. Introduction

In November 2017, Vattenfall presented a report on Human Rights Risk in our Colombian Coal supply chain.¹ This report was a result of 14-month process of preparation, research, country visit, fact checking and stakeholder consultation. The production of the report enabled us to gain a much deeper understanding of the Colombian context than we ever had before. But more importantly, it serves as a starting point for further constructive discussions with mining companies and other stakeholders.

In the report, we identified potential human rights risks related to workers' rights, environmental and health impacts, resettlement, security, and land rights in the Colombian departments of Cesar, La Guajira, and Magdalena. On each risk, we provided recommendations for the coal mining companies on how to address the challenges either on their own or jointly with other stakeholders.

Based on our recommendations, we aim to develop individual actions plans with SMART goals with the coal mining companies.

Starting with this update, we will provide bi-annual reports on how we progress towards having agreed on action plans with the mining companies to address the potential risks and ultimately work towards improvements on the ground.

1. A Human Rights Risk Assessment in Colombia, Vattenfall, November 2017
https://corporate.vattenfall.com/globalassets/corporate/sustainability/doc/vattenfall_colombia_coal_report_english.pdf

2. What happened since publication of the report

2.1. Alignment with Bettercoal

During the first quarter of 2018, we sought alignment with the industry initiative Bettercoal, of which Vattenfall is a founding member. We took the findings of our report to Bettercoal and agreed on a process to incorporate the results of our due diligence into the site assessment process of Bettercoal.

In a first step, this resulted in a joint visit with Bettercoal and some of its member companies (Engie, RWE and Uniper) to Colombia in April 2018. Together with this delegation, we met a variety of stakeholders.

Colombia is one of the priority countries within Bettercoal and the initiative has made progress on obtaining coal mining companies commitment to undergo a site assessment.

As a result from our discussions, Bettercoal has decided to set up a working group for Colombia, which will materialise over the next months. We fully support this move and will continue discussing within Bettercoal and this working group how our recommendations and action plans can be incorporated into the initiative's work.

This approach is in line with the latest OECD Guidelines on Responsible Business Conduct. The Guidance recognises room for collaboration in carrying out due diligence and suggests that multi-stakeholder and industry initiatives can be means for this. The Guidance also reminds that, "participation in an initiative does not shift responsibility from the enterprise to the initiative for adverse impacts that it causes, contributes to or to which it is directly linked." Corporate Social Responsibility initiatives might help but do not replace companies' own due diligence.

2.2. Follow-up visit to Colombia

From 9-20 April 2018, we conducted a follow-up visit to Colombia to start a dialogue on the development of action plans with the companies, to offer an update on the progress to our stakeholders and to receive updates on the situation on the ground. We organised this visit jointly with the industry initiative Bettercoal.

We met, for example, the community representatives of El Hatillo, Boquerón, Tabaco, Roche, Patilla, Rocio, Chancleta and Tamaquito, the Ministry of Labour, the Ministry of Health, the Ministry of Mines, the National Ombudsman, the Presidential Advisor on Human Rights, representatives of several labour unions, the Dutch and German Ambassador, and a human rights expert from the Swedish Embassy.

One thing that we sensed when talking to stakeholders in Colombia was that people very much appreciated our follow-up visit as a sign of continuous engagement and genuine interest to contribute to improvements. For example, representatives of the El Hatillo community expressed that this was the first time a company visited again and showed what the result of their report was.

Since our last visit, we were informed of progress on several issues: The resettlement of El Hatillo advanced further and mining company Prodeco took a meaningful step towards victims of past human rights violations. We also saw positive steps such as the work done in the community of La Victoria by Prodeco and the signing of a declaration for the protection and respecting Human Rights Leaders and Defenders by all four mining companies.²

On the other hand, we observed that despite efforts from the mining companies, a lot of the challenges described in our report remain. And one of the main issues continues to be the lack of trust between stakeholders. Many issues cannot be fixed quickly and require a longer process of involvement.

2.3. Status of action plans with mining companies

Next to the joint meetings we had together with the Bettercoal delegation, we met individually with the mining companies Cerrejon, Colombian Natural Resources, Drummond and Prodeco to discuss our recommendations in more detail and make progress towards having individual action plans in place. We have already made great progress with Prodeco on an action plan and our aim is to have action plans for all companies in place by end of October 2018.

2.4. Main developments in Colombia

When talking to our local stakeholders in Colombia, we received a lot of valuable updates. Most positive developments that we were informed about are:

- **Past human rights violations.** During a meeting with an assembly of victims of past human rights violations (Asamblea Comunitaria), it was indicated to us that there has been progress from Prodeco on a possible dialogue between them and the mining company.³
- **Resettlement of El Hatillo.** Representatives of the El Hatillo community mentioned that there had been significant progress in their resettlement procedure.

However, people raised their continued concern on other issues. Some of the most important issues that we are and will be discussing with the mining companies are:

- **Reconciliation for victims of past human rights violations.** Although there has been some progress, we continue to see that improvements are needed towards a dialogue between the victims of past human rights violations and the mining companies.⁴

2. <http://www.ideaspaz.org/publications/posts/1681>

3. Prodeco attends commemoration in community Santa
<http://www.grupoprodeco.com.co/en/media/press-releases/statement-support-victims-violence/>
<https://www.paxforpeace.nl/stay-informed/news/prodeco-attends-historic-commemoration-for-blood-coal-victims>

4. Serious threats against human rights defenders in Cesar mining region
<https://www.paxforpeace.nl/stay-informed/news/serious-threats-against-human-rights-defenders-in-cesar-mining-region>
 Prodeco rejects threats and acts of violence
<http://www.grupoprodeco.com.co/en/media/corporate-news/prodeco-rejects-threats-and-acts-violence1/>
 Drummond rejects threats against civil society members
<http://www.drummondltl.com/drummond-rejects-threats/?lang=en>

- **Access of water in La Guajira.** La Guajira is a dry region. Communities close to the mining operations in this area have stated that mining has impacted their access to water and that, after resettlement, the water which was provided to them, was not enough and insufficient in quality.
- **Resettlement of Boquerón.** The resettlement of Boquerón has been delayed due to a multitude of reasons. First, the community is strongly divided into residents and non-residents. The residents have a legitimate claim to land. Non-residents moved into the community after the resettlement had been communicated hoping to benefit from the resettlement. Second, the original order to resettle the community was allegedly based on a too high prognosis of emissions. The mining companies conducted a study, which shows that emission levels are below that of the national limits. Based on this study, they claim that Boquerón does not have to be resettled. The environmental regulator ANLA is reviewing the study, but as this is a controversial topic and due to recent elections, the decision will likely not be ready until late 2018. According to community representatives, people do not have access to water, electricity, transport and other infrastructure.
- **Worker rights.** Comments from the Labour Unions focus on three topics: Health and safety conditions for workers, recognition of work-related illnesses, and use of subcontractors.

2.5. Stakeholder alignment

We have to acknowledge that we cannot improve things on the ground solely on our own. This is why we have also reached out to a variety of stakeholders during the last couple of months to share our experiences in creating the report, communicate our findings and aligning on joint actions.

In October 2017, we met a delegation on their trip to Europe formed by Colombian mining companies, the Minister of Mines, the Colombian Coal Mining Association together with the Presidential Office for Human Rights to discuss our efforts. The Presidential Office is working on a National Action Plan on Human Rights, that partly overlaps with our recommendations. Some of the relevant mining companies are already working with the Presidential Office in a Coal Working Group. We aim to establish a close alignment between the activities of the Presidential Office on responsible mining practices and ours to avoid duplication of efforts. During our follow-up visit in April, the Presidential Office organised two round-tables for us with representatives of the Colombian Government (Ministry of Mines, Ministry of Labour, Ministry of Environment, ANLA). This gave us the opportunity to hear the government's reaction to our report, give an update on the progress we had made since November 2017 and explain our recommendations in more detail. During these meetings, the Colombian government recognised some of the contextual challenges described in our report and highlighted what they have done and will do to address these challenges.

We initiated contact with the Colombian embassies of Sweden, Netherlands and Germany. We met a Human Rights specialist of the Swedish Embassy, the Dutch and the German Ambassador and received a lot of input especially on the situation in the Cesar region.

Our dialogues with the Ministry of Foreign Affairs in Sweden and in the Netherlands are ongoing. We have not started a dialogue with the Germany Ministry of Foreign Affairs, yet.

We are seeking to align our recommendations with other international agendas. For example, we have engaged with the Swedish International Development Agency (SIDA) the International Council of Swedish Industry (NIR). SIDA and NIR are active developers in Colombia. NIR, for example, is currently looking for projects in the health area. We think this kind of coordination is important to identify whether development agencies can help us promoting some of our recommendations or whether we can work together to tackle certain issues.

We reached out to Non-Governmental Organisations and energy companies to share our learnings on the situation in Colombia and our experiences from conducting a human rights risk assessment.

3. Next steps

Our next steps in working towards having action plans in place and aligning with our main stakeholders include:

- We will continue the dialogue with the mining companies on getting action plans in place. We have already made great progress with Prodeco on an action plan and aim to have agreed actions plans with all four companies by the end of October 2018.
- Bettercoal will have working groups per priority countries such as Colombia and Russia. We will bring in our ideas how to include Human Rights Risk Assessments into the procedures of Bettercoal with the ambition to agree on a joint way forward. We will also discuss our idea for a Human Rights Risk Assessment in Russia in the working group for Russia.