

## PRESS RELEASE

JUNE 2007

EMBARGO - to time of lodging with ANCP and service on BHP-B

From - Ralph C Bleechmore, Barrister and Solicitor

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Acting as agent only for the three parties in Colombia, listed on the Formal Notice (Part C of the Affidavit), addressed to, and served on BHP-Billiton, attached.

### **Complaint lodged against BHP-Billiton with OECD for conduct of Cerrejon Coal in Colombia.**

*“Cerrejon coal, possibly the largest open-cut coal-mine in the world, is co-owned by BHP-B together with Anglo-American and Xstrata. Cerrejon has attempted to depopulate an area of the La Guajira peninsular by the destruction of one 200 year old township-pueblo, Tabaco and the forced expulsion of the remaining population by a purported expropriation. Another five pueblos are suffering from the effects of what is called locally ‘estrangulacion’- which is designed to make living unviable in the area and drive the population out. This has been at great cost, suffering and hardship for the former population of Tabaco and of the other five pueblos.*

*All this to expand the mine- for the convenience of Cerrejon and the financial benefit of BHP-Billiton.”*

Said South Australian lawyer, Ralph Bleechmore, (Agent for three Colombian parties) who has just completed ten months of investigation, including field work in La Guajira Department, in the north of Colombia, as part of his work with the human rights organization *Corporacion Colectivo de Abogados* (one of the Parties) – based in Bogota and winner of several international awards for their work.

**The Colombian instructing parties** to the OECD action are (as set out in detail in the Affidavit Part C and also at the foot of this Press Release):

\*Dr Armando Perez Araujo of Maicao in La Guajira, legal practitioner representing ex-residents of Tabaco and individual residents of the five communities, including individual Wayuu.

\*Senor Jose-Julio Perez of Albania in La Guajira, legal officer and spokesperson for the groups of ex residents of Tabaco and other Afro-Colombian Groups with members in the five communities.

\*Senor Alirio Uribe Munoz of Bogota, senior legal officer with the Corporacion Colectivo de Abogados *Jose Alvear Restrepo*-winner of numerous international awards and prizes in the field of Human Rights Law, and who has conduct of the file into the investigation of Cerrejon Coal.

There are other individual complainants from the five communities who cannot be identified for fear of reprisal and victimization.

The five communities are Los Remedios, Patilla, Chancleta, La Roche and Tamaquitos (a Wayuu indigenous pueblo).

**Mr. Bleechmore, as Agent for the three Colombian parties, set out in the Affidavit Part C - and other parties which cannot be named for fear of reprisal or victimization, have lodged a Formal Complaint with the OECD Point of Contact in Canberra. Part B of the Affidavit sets out the acts which breach the Guidelines for the Code of Conduct of Multinational Companies.**

**Part C of the Affidavit is a Formal Notice which has been served on BHP-B setting out the destructive acts of Cerrejon, the lack of action by co-owners BHP, and constructively, what must be done to rectify the situation. (A copy of the Formal Notice is attached to this press release.) This has been necessary so that BHP-B cannot claim ignorance or the so-called 'Ronald Reagan' or 'Sgt. Schulz' defence. These matters have been raised with the company in 2004 and 2005 with no discernible difference in Cerrejon's behaviour thereafter.**

*“We are optimistic of a positive response from the BHP-B, despite the response to date, when advised of the situation. I am advised from the UK also that the attitude of Xstrata is different- having only joined the group and, no doubt, anxious not to be tainted by the conduct. It should not be necessary for the lawyers and others concerned to initiate similar action in the UK and Switzerland against the co-owners.*

*We have examined the possibilities of legal action in both Australia and the UK. There would be little left of the communities by the time, in years, that judgment could be obtained. We hope that legal action will not be further necessary and that the OECD process will result in action by the co-owners to implement the rectification plan set out in paragraph 6 of the Formal Notice - essentially the relocation of Tabaco and the reversal of the ‘estrangulacion’ policy for the other communities with the setting- up of a ‘Marp’ – type consultative structure with the communities- based on the South Australian model.*

*BHP-B should forthwith investigate directly the situation in Colombia- if they have not already done so- including the so-called ‘welfare’ programs, actions of the ‘vigilancia’ private security, circumstances surrounding the compensation provided, or not, lack of compliance of health regulations, the flawed nature of the purported ‘expropriation’ and the current plight of ex-Tabaco residents and the communities suffering ‘estrangulacion’.*

*BHP-B should not just accept self-serving, convenient propaganda supplied from Colombia.”*

**Said Mr. Bleachmore, who is to return to the UK shortly to confer with the lawyers and others groups acting for the CCdeA and the five communities, including the Swiss NGO considering the same action.**

***“Whatever is its exact portion of blame, BHP-B has the duty to exercise proper control over what Cerrejon does in Colombia, together with the co-owners. Cerrejon, now, is in possession and control of the land that once was farms, homes, church, school, health centre and cemetery-which are now rubble.*”**

***We are sure BHP-B would not want to be considered among the group of foreign companies taking advantage of the situation in Colombia, some being accused of serious human rights abuses, ranging from killing and torturing trade unionists, to funding para-militaries and the clearance of communities to make way for the expansion of gold mines. (See detail on Formal Notice).***

***In my youth, BHP was proudly known as the ‘Big Australian’-there is no reason why it should be henceforth known as ‘Australia’s shame’. We have no agenda to hurt the company – the reverse, in fact, ie to limit damage. However if the company should continue in a state of ‘deny, delay or evade’ or if the company attempts to ‘gag’ myself or the Colombians with a ‘slap-suit’, or to stop us exercising our rights before the ANCP, we have more than sufficient resources to bring the Colombian victims here to tell their story directly to the Australian community- any damage suffered by the company will have been self inflicted.”***

*Note on the Agent in Australia - Ralph Bleechmore is a South Australian legal practitioner of 29 years experience.*

He has worked in Colombia for the last 10 months for the CCdeA and completes his last month of Colombian work in Australia. He has been given written instructions to act as Agent by the instructing parties set out below. Other parties and groups are not named for the reasons set out above.

He spent most of his time on International options and the conduct of Cerrejon in particular. He did field work as a witness and observer in the La Guajira communities living and working there over a three week period

during two visits in October 2006 and May 2007. He took photographs, documented conditions, attended interviews by doctors, social workers and lawyers and meetings of residents including the Wayuu pueblo of Tamaquitos.

More detail on the **Colombian instructing parties** to the OECD action are (as set out in detail in the Affidavit Part C):

\*Dr Armando Perez Araujo of Maicao in La Guajira, legal practitioner representing ex-residents of Tabaco and individual residents of the five communities of Los Remedios, Patilla, Chancleta, La Roche, and Wayuu residents of Tamaquitos. He also acted for ex-Tabaco residents in the successful case no 0014-01 in the Supreme Court of Colombia.

\*Senor Jose-Julio Perez of Albania in La Guajira, legal officer and spokesperson for the group of ex residents of Tabaco and other Afro-Colombian Groups with members in the five communities.

\*Senor Alirio Uribe Munoz of Bogota, senior legal officer with the Corporacion Colectivo de Abogados *Jose Alvear Restrepo*-winner of numerous international awards and prizes in the field of Human Rights Law. Senor Uribe has conducted the file into the investigation of Cerrejon Coal following complaints from Tabaco ex-residents and members of the five communities.

There are other individual complainants from the five communities who cannot be identified for fear of reprisal and victimization.

*Ralph Bleechmore would like to thank the Latin American Friendship Group and the Group of Fourteen Plus for their encouragement and support.*

Please note that the contents of the press release above are extracted from documents lodged with the ANCP, in the form of an affidavit seeking an investigation pursuant to the Convention and enabling legislation.

Find attached a copy of the Formal Notice served on BHP-B.