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VIA EMAIL (registry@ohchr.org), FACSIMILE (+41229179008)

Mr. Karim Ghezraoui
Chief, a.i.
Special Procedures Branch
Office of the United Nations
High Commissioner for Human Rights
Palais des Nations
1211 Geneva 10
Switzerland

Re: December 7, 2015 Joint Communication

Dear Mr. Ghezraoui:

I am writing this initial response to the letter you sent to Vale, c/o Murilo Ferreira on December 7, 2015 (which included the inquiry by the Working Group and Special Rapporteurs). My law firm serves as outside counsel to Vale on these issues.

Personally, I am honored to be able to provide this initial response because I served as a Special Counselor to the U.N. High Commissioner for Human Rights (Jose Ayala Lasso) during periods between 1994 through 1996 in Geneva, New York and as assigned. I am very familiar with the Working Group and the efforts of the Special Rapporteurs.

To begin with, Vale takes very seriously its responsibilities as a good corporate citizen. As part of this commitment, it has balanced the needs of the world for raw materials, mainly for fuel and construction, with the priority to protect the environment. Specifically, Vale recognizes the need for all companies and all persons to carry out their businesses keeping in mind the rights of people to a safe, clean, healthy and sustainable environment. Our company follows discussions on policy relating to the environment, commerce, energy, sustainable development and transparency, among others. We believe that our participation in forums, institutions and other initiatives is an opportunity to monitor global trends in sustainable development, discover best practices and enable the exchange of experience between companies. Among other initiatives, here follow some examples of some our institutional partnerships towards the improvement of sustainable business practices:

- United Nations Global Compact. We are a signatory and have followed the 10 principles proposed by the Global Compact since 2007. And since 2010 we have been

a part of the Global Compact Lead platform, which brings together leading companies to discuss sustainability issues addressed by the Global Compact.

- World Business Council for Sustainable Development (WBCSD). We collaborate with the development of the WBCSD project, "Action 2020", the objective of which is to identify ways in which companies can carry out their roles in the challenge to create a sustainable planet by 2050, suggesting public policy and corporate solutions.
- Sustainable Development Solutions Network (SDSN). We are part of both the Executive Committee and leadership Committee, and have participated in the discussions of the thematic group "Good Governance of Extractive Resources and Biodiversity".
- Brazilian Mining Institute (IBRAM). We participate in various initiatives and Special Programs promoted by the Institute and its other partners to promote sustainable development through studies, manuals and guides, research, innovation and the use of cutting-edge technology.
- And among other recognitions and awards, Vale has been granted in the past two years: Brazilian GHG Protocol Program. In 2014, our inventory of greenhouse gas (GHG) emissions received the program's Gold Seal for the fifth consecutive year.
- CDP Climate Change Program. In 2014, we presented the second highest transparency score in the evaluation of a CDP questionnaire taken by Latin American companies, and we were included for the fifth time on the CDLI (Climate Disclosure Leadership Index).
- Carbon Efficient Index (ICO2). We participate in the Carbon Efficient Index (ICO2), developed by the São Paulo Stock Exchange (Bovespa) and the Brazilian National Development Bank (BNDES).

You can readily see that Vale has been a leader in its industry promoting the same goals as the Working Group and Special Rapporteurs. So when the incident in Minas Gerais occurred, a number of actions were taken immediately by Samarco, which, as you know, is owned by Vale and BHP Billiton. Within hours of the incident, Samarco (and in some cases Vale) began rescue and retrieval efforts for the people affected, as well as actions to remediate the land and provide all necessary and urgent services. These have included:

1 – Daily supply of 44 tanks of potable water (780 thousand liters) by train, plus 14,5 million liters of mineral water still being distributed to the affected communities;

2 – Technical personnel dedicated full time in the most affected municipalities: Governador Valadares, Resplendor, Colatina e Vitória;

- 3 – Recruitment of doctors, nurses and social workers to help victims on a full time basis. The Mina de Alegria Health Center, property of Vale, was also made available to the victims at all times;
- 4 – Sheltering approximately 631 victims of the tragedy in the municipality of Mariana;
- 5 – Yielding helicopters and 30 thousand liters of fuel for the rescue of victims, as well as three vehicles and two ambulances. The Mina de Alegria heliport, property of Vale, was also made available to that purpose;
- 6 – Technical support and equipment rendered for the riprap of the damaged barrage;
- 7 – Technical support for the construction of six new artesian wells in the city of Colatina;
- 8 – Reestablishment of natural water supply from Rio Guandu;
- 9 – Treatment of the water taken from the Santaninha stream;
- 10 – Abstraction of water through tank trucks from the Barroso stream;
- 11 – Recruitment of Agromig and Stinguel for the removal of dead fish in the urban area of Resplendor, and their proper disposal in the area defined by the Environmental Secretary of Resplendor.

Since the immediate event, Vale has continued to work with Samarco, its co-owner BHP Billiton, the Brazilian government, NGOs, and the people affected to take additional steps to remediate and provide services to those impacted. This will be a continuous effort for years to come.

Vale has also announced its support to the 1 billion real emergency fund established by Samarco and Brazilian federal and Minas Gerais state prosecutors. The Preliminary Commitment would guarantee funding for a range of emergency measures including prevention, mitigation, remediation and compensation for environmental and social effects of the incident at Samarco.

On November 27th, Vale and BHP Billiton announced plans to work together, with Samarco, to establish a voluntary, non-profit fund to support the rescue and recuperation of the Rio Doce river system, affected by the accident at Samarco's Fundão dam. The fund would initially be sponsored by Vale and BHP. The aim is to seek additional financial support from other private, public entities and NGOs. The initial value is still being defined. The objective, however, is that these resources would support the rescue and recuperation efforts of the river system for the long term. The number of participants has yet to be defined,

but it would likely include representatives from the private and public entities. The fund would also undergo regular independent audits.

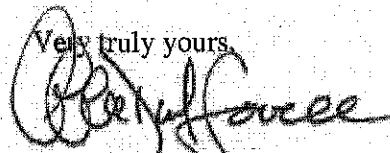
With respect to the eight questions of the Working Group and Special Rapporteurs, shortly after the incident Samarco, Vale and BHP Billiton, formed a special committee to investigate what happened, the causes, the risks to other facilities and what more could have been done (if anything) to prevent the disaster and what can be done to prevent future accidents of this sort. The special committee has hired an external, independent law firm (the international firm Cleary Gottlieb) to conduct this investigation. This law firm has already started its work, which included the hiring of numerous experts in the fields of mining, construction and the environment who will be providing information to the committee.

The work of the law firm and its experts, including the examination of tens of thousands of documents and dozens of interviews, and the work of my law firm (representing Vale) and Vale itself, as well as BHP and its counsel, will address all the questions that were submitted on December 7, 2015. It is not possible to give the Working Group and Special Rapporteurs definitive and complete information until this independent investigation is carried out. The High Commissioner would want it no other way because a thorough review is the only way to get answers on which your Office and the people of Brazil can rely.

While the special committee and its counsel have already started their work, they estimate it will take up to six months for the investigation to be completed. We are working with them to see if even that ambitious timetable can be expedited. However, this is a complex area that requires a great deal of review. Nevertheless, we will not wait until the completion of the work of the special committee to start providing answers to the questions you sent. We will do so on a "rolling basis" as soon as information is obtained for each question that has been checked for accuracy and can be transmitted. In the meantime, I am very happy to meet with you, the Working Group or the Special Rapporteurs (or others in the Office) to go over the actions that have been and will be taken to remediate the problem, the work of the special committee, Vale's commitment to the environment or any other matter of interest related to this unfortunate incident.

Together with Vale, we look forward to our further exchanges with the Working Group and to providing you with all the responses you have requested. Please do not hesitate to contact me at any time as we advance in the investigation process.

Very truly yours,



Abbe David Lowell