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July 1, 2004

Señor Manuel Dosapey
Coordinadora de Pueblos Étnicos de Santa Cruz (CPESC)
Villa 1° de Mayo
Barrio San Juan, Calle 1-A
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Bolivia

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Dear Sr. Dosapey:

In accordance with the timeframe that CAO had committed to, I am pleased to attach the **Capacity Review Report** on COMSUR's operations in Bolivia. As CAO discussed with you during meetings in February and March 2004, and as outlined in the Terms of Reference for the review submitted to CPESC in March, the capacity review was not specific to Don Mario, but considered COMSUR's environmental and social management capacity overall. This has provided a basis for making recommendations for how COMSUR's capacity might be strengthened as part of the ongoing relationship between COMSUR and the IFC, as highlighted in the **Recommendations** section of the report.

We believe that the review strengthens the foundations for a constructive and substantive relationship between COMSUR and communities local to its operations on environmental and social issues of mutual concern. We look forward to meeting with you later this month to discuss the report and your reaction to it.

CAO supplementary observations on Don Mario

While the capacity review report does not deal with individual COMSUR operations in any detail, we are aware that it was initiated as a result of your complaint to the CAO regarding the Don Mario mining project. We also acknowledge your expressed desire for greater clarity regarding the issues you raised in your complaint, which claimed that:

- The original Environmental Impact Assessment (EIA) was flawed, as it had not adequately considered the ecological sensitivity of the project area;
- The consultation process for the project was inadequate;
- Indigenous Peoples Development Plans (IPDPs) should have been prepared for local indigenous communities; and
- There had been no compensation for the profound social and environmental impacts of the project.

In response, and under the auspices of our Ombudsman role, the CAO prepared an Assessment Report of its findings in relation to the allegations and concerns raised in the complaint. In summary, the Assessment report:

- Noted the significant ecological concerns of local communities (particularly in relation to tailings and wastewater management), which are inconsistent with Don Mario's application of state-of-the-art technology to meet international standards, and urged that the company respond to community concerns through improved dialogue and outreach;
- Indicated that the consultations on the EIA did not meet a standard that CAO considered to be acceptable, and that COMSUR's capacity for consultation should be reinforced;
- Recognized that IFC's opinion that the Indigenous Peoples Policy should not apply, as the project resulted in no direct impacts (and indirect impacts were limited), was consistent with current practice and interpretation, but observed that this would have been best addressed through a broader consultative process.

Based on the additional work that we undertook as part of the capacity review, we can make a number of additional observations that are relevant to your original complaint. These are based on: our visit to Don Mario and a tour of the site; a review of project related documents, management systems, and operating practices at Don Mario; discussions with Don Mario operational staff with overall managerial responsibility, and with specific responsibility for environmental and social matters; and critically, the perspectives of community members (from San Juan, Buena Vista, Entre Rios, Ramada, Ipias, and also Taperas) as discussed in a series of meetings with the CAO. These observations were supported by the familiarity of two members of the review team with the communities and their related environmental and social challenges.

We heard a number of consistent messages from all of these communities, including:

- Concerns regarding the nature and extent of the environmental impacts of Don Mario, and dissatisfaction with the information and assurances provided by the mine;
- A sense that the historical relationship between Don Mario and the communities had not always been consistent and meaningful;
- A desire to engage with Don Mario on a long-term planned approach to community development, consistent with the approach taken in the Indigenous Development Plans funded by the Cuiaba Gas pipeline;
- A strong emphasis on the need for both transparency about the financing of community development activities (in terms of company and counterpart contributions), and predictability of the process;
- A deep desire for clarity regarding the nature and extent of the obligations of Don Mario and IFC to the communities.

Accordingly, we have the following observations to make.

Impact of Don Mario on the ecological sensitivity of the project area: The Don Mario project has had a localized ecological impact, in terms of direct land clearance associated

with project infrastructure (mine pit, processing plant, roads, landing strip, etc.). The overall area of land cleared (approximately 60 ha) is small relative to the concession size of 5000 ha and relative to the extensive tracts of similar vegetation that surround it. There is little if any evidence of indirect ecological impacts, as a consequence of improved access to the neighboring lands, and the access roads were already in place for forestry exploitation prior to Don Mario being developed. Some additional land has been converted for agricultural purposes north of San Juan along the access road to Don Mario, but this is thought to be largely unrelated to the mine. The management of process effluents and tailings is in accordance with international standards, and does not appear to be having an adverse impact on forest ecology.

Indigenous People's Development Plans and compensation for impacts: The preparation of indigenous peoples development plans is mandated by IFC for situations where a project adversely affects indigenous peoples, for example, where it restricts their capacity to assert their interests and rights in land and other productive resources. In the case of Don Mario, both IFC and COMSUR were of the opinion that the limited nature and extent of the direct and indirect environmental and social impacts on the indigenous communities in question, meant that there was no requirement to prepare indigenous peoples development plans. While this is contrary to the allegations made in the complaint to the CAO, on the basis of our fieldwork the CAO is of the opinion that the extent of direct and indirect impacts is limited. This is relevant to the demand for compensation on the basis of extensive adverse social and environmental impacts, as alleged in the original complaint.

Don Mario's engagement with communities: The communities in the vicinity of Don Mario expressed concerns relating to their historical engagement with COMSUR, but noted that the level of communication with the company had improved more recently. The capacity review identified a critical need, for COMSUR overall, to reinforce information exchange, transparency and engagement with communities. Areas of particular importance for Don Mario are:

- To more openly share information on environmental and social issues with communities, and put in place a transparent and predictable complaint resolution process;
- To engage with communities on issues of mutual concern in developing operational emergency response plans; to clearly and consistently communicate to communities the criteria for participation in community development activities, arrangements for financing of such projects, and the implementation process; and
- To ensure the active participation of the community in establishing development priorities. The capacity review report makes several related recommendations that CAO believe, if implemented, have the potential to strengthen the relations between Don Mario and neighboring communities.

Looking to the future

The CAO Assessment Report also noted tensions between the company's perspective on community engagement as a "favor" and community perspectives on community engagement as an "obligation or right" (by virtue of being impacted), and that these should

be resolved through participatory community development plans. From our work on the capacity review, CAO is of the view that the communities language of “obligation or rights” is not supported by the extent of environmental and social impact, while the language of “favours” used by the company is inconsistent with what we sense is a genuine willingness on the part of the company to constructively engage with communities. We also consider that a window of opportunity exists for the affected communities and COMSUR to move forward with more constructive relationship of mutual benefit. We urge both parties to seize the opportunity.

With kind regards,

Yours sincerely,

Meg Taylor
Compliance Advisor/Ombudsman