

Framework Agreement for Dialogue on Chronic Renal Failure

November 20, 2008

Background

- 1) On March 31, 2008, the Office of the Compliance Advisor/Ombudsman (CAO) of the World Bank Group received a complaint filed on behalf of communities in the Departments of León and Chinandega, expressing their concern about the adverse impacts of the operations of the Nicaragua Sugar Estates Limited (NSEL), a client of the International Finance Corporation (IFC), on the health, environment, and livelihood of the members of these communities.
- 2) The complaint met the CAO's eligibility and admissibility criteria for further assessment, and after two missions to Nicaragua, the CAO presented the Preliminary Assessment Report, in which it proposed that the Parties initiate a dialogue process. The Parties indicated their willingness to enter into a process convened and facilitated by the CAO.
- 3) Although the complaint raised several issues, the CAO believes that Chronic Renal Failure (CRF) warrants a specific dialogue process that includes other Parties who may be able to make constructive contributions to the search for solutions. It has therefore proposed this Framework Agreement for Dialogue on CRF.

Purpose

- 4) The purpose of this Framework Agreement is to establish the ground rules for the dialogue process in order to find solutions to the problem of CRF.
- 5) The Parties in this process are those who have been formally invited by the CAO and have indicated their ratification of and commitment to this Framework Agreement, through a letter signed by their Representatives. Those who subsequently become involved in the process shall accept and respect the progress made and agreements reached.
- 6) The dialogue meetings will focus on and be limited to:
 - (a) ***Determining and addressing the causes of CRF.*** The Parties agree to jointly define the criteria and principles needed for conducting a Study to determine the causes of CRF, which should produce results that are transparent and reliable for all concerned, and offer feasible solutions.

- (i) Results expected: An Agreement on the criteria and principles that will guide the Study. An Agreement to respect the results of the Study, and solutions to the problem.
 - (b) *Options for supporting local communities where there is a prevalence of CRF.* The Parties agree, in good faith and without any legal obligation whatsoever, to seek ways to improve the situation of families affected by CRF, using local resources and State institutions.
 - (i) Result expected: Improvement of the situation of families affected by CRF.
- 7) The process will be convened and facilitated by the CAO, who will be responsible for providing the Parties with a safe environment in which to engage in constructive dialogue. The CAO will conduct one CRF dialogue process and will not accommodate other parallel processes on the same issue.
- 8) Within a period of four months, the Parties shall participate actively in a dialogue process that is efficient, focused, and rapid, holding at least one meeting every two months, counting from the first dialogue meeting convened by the CAO. The Parties may decide to extend the process, by mutual consent, if they so desire. The Parties shall not undertake any actions that could hinder or interrupt the process.
- 9) The Parties agree to abide by the following Code of Conduct to ensure that the dialogue is conducted in accordance with the principles of equity, good faith, informed participation, transparency, accountability, effectiveness, efficiency, respect for human rights, and all the relevant legal frameworks.

Code of Conduct

1. Definitions

- 1.1 **Convener and Facilitator:** A person or institution acting as an independent third Party that creates conditions that enable the Parties to participate in a fair and effective dialogue process. In this process, the CAO will be the convener and facilitator.
- 1.2 **Dialogue:** A bilateral or multilateral process in which persons who have a disagreement about a particular matter seek to find solutions.
- 1.3 **Observer:** A person who acts as a witness to the process, at the invitation of the Facilitator.
- 1.4 **Representative:** A person or group representing one of the Parties in the process and who has a mandate to negotiate and make decisions on their behalf.

- 1.5 Signatory: A person or institution that supports the Parties in the dialogue process, and participates at the invitation of the Facilitator.
- 1.6 The Parties in this Process: The Parties in this process are those who have been formally invited by the CAO and have indicated their ratification of and commitment to this Framework Agreement, through a letter signed by their Representatives.

2. The Parties and the Representatives

- 2.1 Each Party may appoint a team of up to five Representatives. One of them will be elected to be the leader and spokesperson. The name of each Representative and the spokesperson will be communicated in writing, by letter or e-mail, to the CAO and the other Parties.
- 2.2 The Representatives will have the authority to make decisions on behalf of their principals and shall keep them informed of the progress made and the results of the negotiations. This authority must be verified by a formal letter from their principals.
- 2.3 The Parties and Representatives shall:
- Conduct the dialogue in a collaborative rather than a confrontational manner;
 - Share the data and information needed in order to advance the dialogue;
 - Treat each other with the utmost respect;
 - Focus solely on the core issues of this dialogue and not present new complaints;
 - Ensure that there will be no retribution against persons participating in the process; and
 - Accept the Facilitator's leadership and authority.
- 2.4 Any Representative who is unable to attend meetings must justify his/her absence in writing, explaining the reasons therefor. Absent Representatives shall accept any agreement reached by their colleagues.
- 2.5 The Parties may request the assessment of independent experts prior to making decisions on any particular issue during the dialogue process. If financial support is needed in order to achieve this objective, a specific request must be submitted to the CAO.
- 2.6 The Parties will have a maximum of thirty days in which to study and analyze all the necessary information with their principals before making decisions and reaching any agreement.

3. Signatories and Observers

- 3.1 Signatories and Observers of this process will be invited by the CAO, on the initiative of the CAO or at the request of the Parties. The CAO will consult with the other Parties before issuing a formal invitation.
- 3.2 Signatories and Observers may participate in all the meetings, but may not interrupt, intervene, or interfere. They will submit their contributions to the Representatives or Facilitators, at the latter's request.

4. Facilitator

- 4.1 All communications during the process will be routed through the Facilitator.
- 4.2 All meetings will be convened by the Facilitator, either on his/her own initiative or at the request of the Parties, and with sufficient notice. The date, time, duration, and venue for the meetings will be determined by the Facilitator, after consultation with the Parties, taking their needs into account.
- 4.3 The Facilitator will prepare an agenda for each meeting, in consultation with the Parties. The agenda will indicate the purpose of the meeting, the results expected, its duration, and the issues to be dealt with. The agenda will be distributed to all Parties in advance, along with all the necessary information.
- 4.4 The Facilitator will establish specific rules of conduct for the meetings.
- 4.5 The Facilitator will prepare a summary at the end of each meeting to document the results, and will provide copies to each of the Parties for their files.
- 4.6 The Facilitator will be responsible for the logistical aspects of the dialogue meetings, including the following:
 - Accommodation for the Representatives, Signatories, and Observers;
 - Financial assistance in cash to cover transportation for Representatives who need it;
 - Suitable facilities for the dialogue;
 - Meals on meeting days; and
 - The presence of facilitators and support personnel.
- 4.7 The Facilitator may hold private meetings with any of the Parties, provided they are given sufficient notice.
- 4.8 The CAO reserves the right to use its team whenever necessary. The members of the CAO's team are:
 - Meg Taylor, CAO;
 - Amar Inamdar, CAO;
 - Andrea Repetto, CAO;
 - David Atkins, Watershed Environmental;

- Juan Dumas, Latin American Future Foundation [*Fundación Futuro Latinoamericano*]; and
- Alexandra Pérez, Latin American Future Foundation.

5. Rules of Communication and Exchange of Information

- 5.1 All communication in this process must be routed through the Facilitator. No direct discussions may be held between the Parties or members of the Parties' organizations outside of this process and without the intervention of the Facilitator.
- 5.2 All written communication must be addressed to the CAO, signed by the Representatives, and copied to the Parties, Observers, and Signatories.
- 5.3 The Representatives shall share the information from each meeting with their principals. The discussions held during the meetings are private between the Parties, and the details may not be divulged to the public or the media, without the written consent of the other Parties.
- 5.4 During the dialogue process, the Parties will refrain from using the mass media to promote their positions or make any comment whatsoever on the issues related to this process.
- 5.5 All documents related to the process will be written in or translated into Spanish.
- 5.6 The Parties shall share all the information needed for the understanding and resolution of the problem.
- 5.7 The Parties shall not use information obtained during this process, in relation to point 6.b of this Framework Agreement, as valid evidence in any legal proceedings.

6. Interruption

- 6.1 Each Party has the right to **interrupt** the process at any time. In order to do so, its Representatives must submit a written statement explaining why it does not wish to continue the dialogue and indicating which of its needs are not being fully met. The Facilitator shall convene a meeting to discuss its concerns, and if no progress is made, this Party reserves the right to **interrupt** the dialogue.
- 6.2 The Facilitator has the right to postpone and/or **interrupt** the process underway, if s/he believes that it is not possible to make any progress.

6.3 If the process has been interrupted, the Parties have the right to use other alternatives to achieve their objectives.

7. Agreements

7.1 Any agreement reached during this process must express the will of, and be written and signed by all the Parties, and shall take the form of a Memorandum of Understanding.

7.2 An agreement may not be finalized without the presence of all the Parties.

7.3 The Memoranda of Understanding may not be ignored by the Parties and shall include monitoring and compliance mechanisms to ensure the effective implementation of all the commitments made. The CAO will monitor compliance.

7.4 The funding sources for implementation should be clearly identified and allocated.

7.5 This Framework Agreement will be valid even if the Representatives of the Parties change. It may be amended by mutual consent of the Parties.

This Framework Agreement will be ratified expressly by letter addressed to the CAO and signed by the legal Representative of the corresponding Party. A copy of this Framework Agreement, signed on each page by the corresponding legal Representative, must be attached to the letter. A copy shall be sent to the other Parties in the process.