



OMBUDSMAN CONCLUSION REPORT

Regarding Narrative of concerns from community members in Goyena and Abangasca in relation to the IFC Nicaragua Sugar Estates Limited project, Nicaragua

June 2008 – April 2010

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Introduction

This report presents a narrative of the work and progress made by the Office of Compliance Advisor/Ombudsman (CAO) regarding the concerns of some members of the communities of Goyena and Abangasca.

CAO is the independent recourse mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. The CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by projects in a manner that is fair, objective, and constructive and to enhance the social and environmental outcomes of projects in which IFC and MIGA play a role. In the first instance, complaints are responded to by the CAO's Ombudsman function.

The Complaint

On March 31, 2008 the CAO received a complaint on behalf of communities from the Department of León and Chinandega raising concerns about impacts to the health, environment, and livelihoods of community members, believed to be caused by the activities of the Nicaragua Sugar Estates Limited (NSEL), a client of IFC.

The complaint was screened for eligibility on April 18, 2008 and confirmation sent to the complainants and IFC project team in order for them to notify NSEL that the complaint met all of the CAO's eligibility criteria for further assessment.

The Assessment

An Assessment field trip was conducted by the CAO team in June 2008, and after meetings, discussions and information received from all the stakeholders and the initial findings, the streams of work proposed were on the following topics:

1. Identify the causes of CRI and receive appropriate support to address the effects of the disease affecting the community around the San Antonio Sugar Mill;
2. Discuss options to monitor water quality and distribution within a trustworthy process; and
3. Enhance the existing mechanisms to address worker as well as community grievances.

These topics formed the basis for a draft assessment report prepared by CAO that was shared with complainants and finalized in December 2008.

Some members of the communities of Goyena and Abangasca specifically raised Topics 2 and 3.

Progress to Date

In October 2008, the CAO team returned to Nicaragua to share the draft Assessment Report with stakeholders and to have input and comments from them in order to determine how to advance. The team met with NSEL representatives and the staff that primarily works with monitoring the quality and quantity of water to address concerns of Goyena and Abangasca. CAO collected a lot of information regarding the legal framework of water management in Nicaragua (Ley de Aguas) and records and information on the monitoring of water quality and quantity conducted by independent laboratories on behalf of NSEL.

The CAO team also met with some members of the communities of Goyena and Abangasca (approximately 30 people). One of the problems noted by CAO on this meeting was a possible representation issue. During the meeting, members of both communities accepted and agreed with the contents of the Assessment Report presented by CAO, and committed themselves to work on this project with the facilitation of CAO. They expressed the necessity for CAO to bring in foreign experts to avoid information being biased, as expressed in a letter signed by community members on October 06, 2008.

The CAO team also met with the President and the seven Board Members of the Sutiaba Federation, who are elected by Sutiaba community members. In general, the Board felt the relationship with the company could improve. They also stressed that the Board and the company work together on a variety of different projects.

On that same trip, the CAO team met with one of the Sutiaba “Councils of Elders” (there are two Councils), and heard that, in general, the relationship with the company was good. The Council of Elders was concerned with recovering ancestral lands that had traditionally belonged to them, but were sold over the years. CAO understood from the Elders that ancestral land ownership is a wider concern affecting many different stakeholders and CAO explained that this issue needs to be solved within the framework of Nicaraguan laws. As a result this issue could not be addressed by CAO.

In November 2008, CAO continued working on the complaint issues. On November 17, a technical meeting was held between the CAO team and NSEL staff responsible for dealing with water issues. The purpose of this meeting was to further understand and analyze NSEL’s water testing information. On November 19, a meeting was held in the School of Nueva Vida, in Goyena. Several members of the communities of Goyena and Abangasca attended the meeting (18 people). The purpose of the meeting was to share with community members CAO’s experience with corporate/community grievance mechanisms and the CAO Advisory Note on this topic. CAO together with community members also analyzed options in which grievance mechanisms could become standardized channels of communications between the company and the community members.

The CAO team also had a technical meeting with MARENA to better understand the structure of the Ministry and to find out how they are working in managing water basins based on the Law that regulates the usage of water.

In December 2008, CAO returned to continue discussions on the water concerns. On December 18, the CAO team held a workshop with some representatives of the communities of Goyena and Abangasca to find out information on the sources of water for those communities. During this meeting, CAO learned that each house has a water supply and that a total of 450 superficial wells have been installed. Obtaining water is a key issue that families prioritize even before they move into a house. Besides these superficial wells, there are around 19 deep wells that have been dug by different organizations and are distributed in the communities. It was also made clear that the main usage of water among community members is for drinking. Besides this, they also use some water for irrigating crops, washing, and for cattle.

In February 2009, CAO returned to Nicaragua. CAO held two meeting/workshops with NSEL regarding the existing Grievance Mechanism and options for improvement. CAO presented the

Advisory Note on Grievance Mechanisms and discussed the options of implementation and standardization of a Grievance Mechanism System with NSEL staff. CAO also met with the Administrator of the Company regarding grievance mechanisms, who made it clear that NSEL was willing to improve the existing mechanism.

At the same time, CAO's team did an assessment on some of the existing wells in Goyena and Abangasca. During the field trip, we were accompanied by members of the communities and had the opportunity to visit different households and verify the quality of existing wells. The CAO team also visited some of the deep wells that were built by an NGO called "Agua para Vida". All the household wells are superficial, and many of them are old. Therefore, some families have problems bringing up water to the surface because the wells have not had a proper maintenance over the years. In addition, because many of the wells are superficial they are likely to have exposure to cattle and latrine contamination.

In relation to the deep wells, CAO's team could verify that they are well built. In general, they are located in central areas of the communities where access is possible for numerous community members. Nine deep wells have been built in the Communities of Goyena and Abangasca, 5 in Goyena and 4 in Abangasca. These wells have an average depth of 180 to 190 ft. Some community members feel that at least two more deep wells are needed, one in North Goyena and probably one in the highest point of Abangasca.

In March 2009, the CAO continued to work on understanding and strengthening the grievance mechanism. On March 17, 2009 a meeting was held between the Company's staff members responsible for all community relationships. The objective of that meeting was to follow up on the status of implementation of Grievance Mechanisms procedures. There had been recent elections of local authorities (Mayors and councilors). NSEL had spent some time in meetings with the new Mayors and their teams in order to start a relationship of coordination based on community needs. NSEL staff met with the Mayors of Quezalagua, Pozoltega and Chichigalpa. These three towns have boarders Ingenio San Antonio property. Throughout several visits to these municipalities, NSEL had been able to put together a list of needs expressed by community members. The needs had to come in a letter, either written by an individual person, from a group, or from the representatives of the communities. The different complaints and demands are now formally received by the Company, and the approximate time to respond is 15 days according to the information given out by the company.

During this visit, the CAO team also had a meeting with some community members of Goyena and Abangasca. At that meeting, community members made it clear that their main complaints towards the company had to do with sugar burning, cattle trespassing and capture, the relationship with the company's security guards, and water shortages.

The CAO wrote a letter to Mr. Bermudez, the Administrative Director of the Company, on March 31, 2009. In this letter, the CAO asked NSEL how the company was approaching these four major concerns manifested by some of the community members from Goyena and Abangasca.

In April 2009, the CAO team returned to Nicaragua and convened a workshop with the community members of Goyena and Abangasca on the 27th to update community members and share the letter that the CAO office had sent NSEL regarding the principal concerns identified in the last meeting in March. During that meeting, the CAO team learned that community members hoped to

build a constructive relationship with the company. They expressed their willingness to have a meeting with the company to hear how individual community members could reach the company with their grievances, and also to learn how the company is addressing the major issues. Three main concerns during this meeting was the trespassing of cattle on the company's premises and the subsequent capture of cattle by security forces; the relationship with the company's security guards specifically related to their "attitude" as a consequence of cattle trespassing; sugarcane burning; and the quantity and quality of water.

In April 2009, the Sutiaba Indigenous communities had elections, and changed the President and the members of the Executive Board.

In May 2009, the CAO team prepared for convening a meeting between the company and the members of the communities of Goyena and Abangasca. This preparation required a lot of communication with both parties, and it finally was agreed that the meeting would take place on June 20 at the school in Nueva Vida. The CAO team also learned that the Company and the community members had started new meetings and a relationship with the new President of the Sutiaba Indigenous Communities, Fidel Berbis.

In June 2009, the CAO team returned for the meeting between the company and community members. On June 20th, the CAO team facilitated the first meeting between members of the communities of Goyena and Abangasca and representatives of NSEL. Around 50 members of the communities attended, while on the side of NSEL, the head staff members in charge of community relations were present, including: Lic. Norman Meza, (Gerente General Aspectos Sociales); Dr. Marino Castrillo (Asesor Administrativo); Lic. Ricardo Esquivel (Asesor Legal); and Fabio (the head of the Company's Security guards). Mr. Rene Vanegas, Director of the New Haven Sister City project, was also invited to the meeting.

Mr. Meza made a short presentation on behalf of the Company that mainly had to do with the way in which the company relates to the Sutiaba communities.

A list of needs from the community was developed during the meeting:

- Constructing a bridge on a road near Nueva Vida that frequently floods.
- Maintaining roads
- Livestock
- Sugar cane burning
- Standardizing the mechanisms in which they communicate with each other
- Water well protection
- Developing signed agreements
- Installing a potable water system
- Constructing a bridge across the Rio Goyena
- A clinic for the treatment of CRI
- Installation of fences
- Education (added as a point at the end of the meeting)

The parties resolved to immediately start working on three different commissions that would develop action plans for the different topics. The first commission had to do with infrastructure and

was going to be in charge of supervising the construction of the bridge in Nueva Vida. The company said they were allocating 103,000.00 Córdoba, and had to coordinate with the Municipality in order to start building the bridge immediately. Four community members were appointed and the meeting with the Municipality was convened for June 22.

Four additional community members comprised a commission to deal with livestock concerns. Mr. Esquivel from NSEL told participants that there was going to be a meeting with all Sutiaba community leaders and the police to talk about these concerns on June the 29th. The third commission was created to work in the priorities of all other issues including education. This commission integrates two community members, two NSEL members and Mr. Vanegas who was invited to be part of this commission.

Sonia Matute (from the communities), Rene Vanegas (from the New Haven Sister City Project) and Norman Meza (from NSEL), were designated as responsible to do the follow up on the agreements made.

In September 2009, CAO returned to Nicaragua and held a follow-up meeting with Rene Vanegas on the 9th. Mr. Vanegas informed the CAO team that the directives of the *Repartos de las Parcelas*, and *Nueva Vida* had been recently elected. We also learned that the Sutiaba community leaders had met on August 28 to write a letter expressing their needs to the company. Mr. Vanegas also informed CAO that the bridge was being constructed, that the cattle trespassing commission had met and that they reached agreements. He said there have been no additional problems with cattle trespassing after June 29th. He also informed the CAO team that the third commission was working on an Educational Proposal to give to the Company.

On September 04, 2009, CIEL wrote a letter to the CAO Office expressing the concerns of the communities of Goyena and Abangasca regarding the process progress, and their feeling that the Company had not properly responded to the agreements made in June. Kris Genovese from CIEL also expressed her concern regarding the time and effort the CAO team was putting into this part of the complaint.

On October 14, CAO responded to CIEL. In the letter, the CAO stressed the necessity to validate existing mechanisms for communication and for handling grievances by strengthening the formal channels of communication that exist in the elected community leaders. The CAO team also committed to monitoring the implementation of grievance mechanisms on the side of the company, and also agreed to follow up on the implementation of agreements made in the June meeting.

The issues discussed and agreements made during the June meeting are not necessarily in accordance with issues raised in the original complaint of March 31, 2008. We understand that grievances are dynamic and that problems change with time. The agreements made in June were the following:

- Build the bridge in Nueva Vida to prevent flooding, with the intervention of the Municipality.
- Create a Commission to do permanent follow up on problems created by cattle trespassing and capture.
- Construct six well-head protection structures (brocales) in the communities of Goyena and Abangasca.
- Prioritize other needs including education.

Out of these agreements, only cattle trespassing were part of the initial complaint.

In October 2009, the CAO team returned to Nicaragua and met with Rene Vanegas on the 15th to follow up on the agreements made in June. Mr. Vanegas informed CAO that the only agreement that was implemented was construction of the bridge. He also told the CAO team that the commission dealing with cattle trespassing had met once and that the commission addressing education had met with the Sutiaba President at the end of September to share and develop an education proposal to be presented to the company. He mentioned that, in his view, community members felt the company had not been addressing issues properly, and that community members expected to have a meeting with the company soon. In general, Mr. Vanegas had some complaints on the weak structure of the Sutiaba leadership and the lack of effective participatory methods within the Sutiaba communities. He suggested that perhaps a good way to move ahead would be creating a new space where community members could channel their needs and grievances to the company. The CAO team stressed the need to reinforce existing leaderships and communication channels.

On October 16, 2009 the CAO team had a meeting with the new President of the Sutiaba Indigenous Communities, Mr. Fidel Berbis. The main objective of the meeting was to introduce the CAO work in Nicaragua and better understand the concerns of Sutiaba communities. During the meeting, Mr. Berbis stressed the need to improve communication channels and participatory methods with community members as well as strengthen governance. Mr. Berbis also mentioned that after the August community meeting, a list of necessities was developed and presented in a letter to the Company. He also mentioned that he was aware of the meeting held in June and the commissions that were formed. He mentioned that the commissions created were working well, specially the one regarding livestock. He reported that no further trespassing incidents have occurred, and that this commission needed to be institutionalized on a permanent basis for follow up.

Overall, his perception regarding the relationship between the Sutiaba Communities and NSEL is positive. He said he has had several meetings with Norman Meza and little by little they can see the company's willingness to respond.

He asked the CAO team if we could technically assist the Sutiabas in fortifying their governance structure. The CAO team explained that its office was not a funding department of the World Bank Group, but that there may be opportunities from government and other donors for this type of more systemic support to the Sutiaba community.

On October 16, 2009, the CAO team had a meeting with Norman Meza, General Manager of Social Aspects from NSEL. The purpose of the meeting was to learn how agreements made in June were implemented, specifically regarding the communities of Goyena and Abangasca.

Regarding grievance mechanism implementation, the Company has designed grievance handling and management forms that are starting to be distributed within the communities in order to implement a standardized procedure of communication. The Company hired an experienced person to handle community issues and implement these new mechanisms. With the help of this new person, the company has been doing surveys to prioritize needs throughout the communities. So far, they have covered 11 Municipalities.

As far as the agreements made in June, NSEL reported a lot of progress has been made. Regarding the livestock commission, no further incident has been reported since the last meeting at the end of June.

The commission on education has prepared a proposal that was delivered to the company. Lic. Meza expressed the necessity of convening a meeting with members of that commission in order to narrow down the proposal to very concrete aspects of implementation.

The bridge built in Nueva Vida is finished and a formal inauguration was to take place at the end of October. Lic. Meza felt that this infrastructure commission should now be dealing with the construction of the brocales the company offered, since out of the 6, only one was finished and 3 more are being constructed. The other two are still being planned.

On the issue of burning, NSEL is implementing a norm recently approved by MARENA on sugar cane burning (05030-06 Technical Norm of Nicaragua). They are updating their staff on recent regulations.

Regarding the letter from the Sutiaba Communities that presented prioritized needs, the letter had just been received by the company on October 15, so they were going to process it in the new grievance / needs format.

NSEL still needs to work on letting people know how to access the grievance mechanism and on the standardization and implementation of how to respond, including time frames.

In December 2009, the CAO team returned to Nicaragua to follow up on agreements and define next steps. The CAO feels progress has been made regarding improving grievance management. CAO convened a meeting between the Company and community members to explain the current status of agreements made in June, as well as the implementation and standardization of the Grievance Mechanism. The meeting took place on December 5, 2009 at the New Life School. Details about the meeting can be found below on the facilitator's summary.

Conclusion

CAO has determined that the meeting on December 5, 2009, demonstrated that communication between members of the communities of Goyena and Abangasca and NSEL has improved. CAO has also determined that the grievance mechanism put in place by NSEL is appropriate, should be used by community members, and should be given a chance to function as intended. To this purpose, CAO is ending regular engagement regarding topics 2 and 3 as discussed in the complaint assessment (see above).

CAO will continue to facilitate the dialogue process on Chronic Renal Insufficiency (CRI) between ASOCHIVIDA and NSEL, and thus will continue to work in Leon and Chinandega for the foreseeable future. CAO recommends that all the persons who have worked at the sugar mill and have CRI contact ASOCHIVIDA to act on their behalf in this instance. In addition, if community members or company representatives have concerns about the ongoing functioning of the grievance mechanism implemented by the company or any other concerns related to NSEL, they should feel free to contact CAO representatives.

Meeting of representatives of the San Antonio Sugar Mill and members of the communities of Goyena and Abangasca

Facilitated by the Compliance Advisor Office/Ombudsman (CAO) of the World Bank Group

December 5, 2009

1. Background

In a claim submitted to CAO on March 31, 2008, members of communities of the Departments of León and Chinandega alleged impacts on their health, environment and quality of life, caused by the activities of the San Antonio Sugar Mill, owned by Nicaragua Sugar Estates Limited (NSEL), a client of IFC. After considering the claim eligible and performing an analysis of the situation, CAO considered that there were three groups of concerns: i) Chronic Renal Insufficiency, ii) the access to water in the communities of Goyena and Abangasca (G&A); iii) and the strengthening of the complaint mechanisms between NSEL and the neighboring communities.

The subject of Chronic Renal Insufficiency is being addressed in a specific dialogue process between ASOCHIVIDA and NSEL, the issues of access to water and complaint handling were discussed in subsequent meetings with the communities of G&A.

On June 20, 2009, CAO facilitated a meeting between NSEL representatives and members of the communities of G&A and the following agreements were made:

- a. Form a Committee on Infrastructure needs whose first task would be to ensure the urgent construction of a bridge that would allow passage to the village of Nueva Vida during periods of flooding. NSEL publicly committed to contribute 103.000,00 córdobas and they agreed on the importance of close cooperation with the Municipality.
- b. Four members of the communities would participate in the meetings of a Committee about the problems with cattle; this meeting took place on June 29.
- c. Another committee would work on a proposal of support for education in the communities.

During the June 20 meeting, a note was made of other needs that the members of the communities of G&A consider it important to address, among them: the maintenance of access along roads and paths; the effects of the burning of sugar cane; the protection of water wells; the subscription of agreements; the installation of potable water systems; the construction of a bridge over the Goyena river; the installation of a clinic for the treatment of CRI; and the installation of fences.

Finally, they pointed out the importance of having a grievance mechanism that would receive and respond to claims submitted by community members regarding the relationship between NSEL and the neighboring communities.

2. Progress

The meeting of December 5 was convened to follow up on the agreements reached on June 20 and formalize a grievance mechanism to manage claims between NSEL and the communities.

At the meeting, it was possible to confirm the following advancements in the agreements achieved and in addressing other subjects of interest for the members of the communities of G&A:

- a. The bridge on the way to Nueva Vida has been built. The need arose to verify how well the bridge may withstand conditions in the rainy season.
- b. Since the committee met about the cattle, not a single problem related with that question has been reported, and the agreements reached have served to improve the situation very much.
- c. There was work on a proposal for the Education Committee that has already been submitted but still needs to be analyzed and implemented. The Committee will continue to work on this subject.

In turn, the company contributed the construction of surface protection for seven water wells and it also installed pumps in some of them.

Of the other needs mentioned by the members of the communities in G&A, the following issues were discussed:

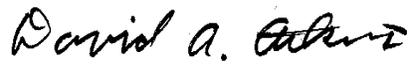
- The members of G&A that participated in the meeting ratified that one of their main problems is the access to potable water and it was agreed that this issue should be addressed as a triparty discussion that would include the Municipality.
- Some members of the communities expressed their concern about the effect of fumigation made by the sugar mill aircraft on their plantations and requested that the damage be addressed.
- Others stated that the workers of the sugar mill receive threatening treatment from their bosses, creating a fear that bars them from lodging a complaint. Norman Meza (NSEL) said that the company has a policy of good treatment and that he is at their disposal to receive complaints directly on his cell-phone, or to pay visits and make the relevant inspections, while keeping the identity of the complainant confidential.
- Further information was requested regarding the norms of MARENA that specify a distance between the sugar plantations and neighboring property. Company representatives committed themselves to obtain and deliver the relevant documentation.
- They also pointed out that the road needs better maintenance and that the community is willing to contribute manpower to cooperate with the sugar mill in this task.
- Finally, they complained to the sugar mill that the way to the sea is cut off and should be reopened.

All these points were respectfully posed and in an atmosphere of constructive, cordial dialogue. There was a general consensus on the importance of maintaining spaces for direct dialogue, so as to avoid the communication problems that have arisen so far. NSEL has appointed a person that will visit the communities weekly and will be present in G&A on Thursdays. The company will also keep in touch with representatives of all the Suativa Indigenous Communities.

To proceed with the claims or applications that the communities wish to submit to NSEL, their representatives distributed forms that people can use so that the company can process them. The claims or applications may be presented individually or as a community, with identification or anonymously. NSEL is committed to give an answer to every claim or application within 10 days. NSEL keeps an internal record of claims and applications of every community and commits itself to share the information about G&A with the members of these communities.

CAO also explained that it will continue to facilitate the dialogue process on Chronic Renal Insufficiency between ASOCHIVIDA and NSEL. CAO recommended to all the persons who have worked at the sugar mill and have this disease to contact ASOCHIVIDA to act on their behalf in this instance.

Finally, CAO expressed its satisfaction with the relationship created and the vocation for dialogue shown, both by members of the communities of G&A and by NSEL representatives. This will be the last meeting convened by CAO and, from now on, the communication mechanism that has been set up shall be the channel between company and community. Since CAO shall continue working in Chichigalpa on the issue of CRI, community members should feel free to contact CAO representatives if the need arises.


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