

January 29, 2009

Ms. Meg Taylor  
Compliance Advisor/Ombudsman  
2121 Pennsylvania Avenue, N.W.  
Washington, DC 20433

Dear Meg,

Thank you and your team for providing us with your Stakeholder Assessment Report on Nicaragua Sugar Estates Limited (NSEL) dated December 2008. We welcome the release of the report and appreciate your team's mediation efforts.

We have been following your mediation process very closely. We are happy to hear that, under your auspices, NSEL and the complainants have come a long way in bridging their differences.

IFC's support of NSEL has been based on a strict due diligence that confirmed that the company's procedures are in compliance with IFC's social and environmental standards. These standards, along with IFC's disclosure policy, have been developed with a broad participation by multiple stakeholders and have become the global benchmark for sustainability in project finance.

We are glad to see that most of the report's findings are consistent with IFC's initial appraisal of the project with NSEL and that most of the issues have been summarily addressed by NSEL or otherwise resolved.

### **Chronic Renal Insufficiency (CRI)**

Your report noted that different inconclusive studies exist about the causes of CRI, and there is no clear causal connection between either NSEL or the sugar industry and CRI. Some studies indicate that CRI could be caused by other factors, including genetic predisposition, diabetes, malnutrition, exposure to volcanic surrounds, and/or alcoholism. This might explain why there is evidence of high incidences of CRI in other regions of Nicaragua with no sugar industry and in developed countries with no sugarcane industry, or few cases of CRI in other sugar-producing countries.

NSEL is the main employer in the community and recognizes that CRI poses a serious health and social concern. Despite no proven link between NSEL's operations and CRI, the company provides medical and hospital assistance to its employees suffering from CRI.

IFC welcomes the signing of the CAO-mediated Framework Agreement between NSEL and the complainants to explore options for improved care and to commission research to better understand the causes of CRI. It promotes a collaborative approach to addressing health concerns related to all segments of society. NSEL's willingness to agree to issues that go beyond compliance with IFC's social and environmental standards and Nicaraguan law demonstrate its commitment to the community.

IFC agrees that exploring opportunities for improving services to those families affected by CRI should remain a priority for public health institutions, the community, and any company concerned about the general welfare of rural work force in this part of Nicaragua. We would also suggest that there be increased focus on measures such as proper hydration and on education campaigns to decrease the high consumption of artisan-distilled alcohol, and increase CRI awareness. NSEL and other sugar companies in Nicaragua, through their national association, have approached the health authorities to launch such education campaigns. In doing so, this will also reach other vulnerable people across Nicaragua.

While a multi-stakeholder medical study to find the root-causes of CRI is a step in the right direction, it faces some important challenges. A study of the proposed scale needs to have sufficient resources to see it through to the end, and needs to be properly planned and supervised. Furthermore, the expectations of all parties involved need to be adequately managed given that such studies may take years and may still be inconclusive. This has been the experience of previous efforts on CRI and other epidemiological studies in developed countries.

### **Water Issues**

NSEL is in compliance with the existing law regulating water use. We believe that it is the prerogative of the government to expand the scope of such law as it deems necessary. The claim, however, is related more to the availability of underground water than to issues relevant to the river basin. NSEL has shared with your team several independent hydrogeological studies that confirm the ample availability of underground water. While not required to do so, NSEL has proposed to drill production wells for the community to reach deeper water layers. This proposal is commensurate with the extent of the problem and addresses the key community concerns.

Regular and extensive testing of the ground water has shown that the water in the vicinity of NSEL's facilities is within WHO standards for drinking water. It should not be difficult for a third-party, acceptable to the parties, to verify water quality at the company and community level. This can be coupled with an explanation to the community of the actual sources for company and community water.



## Grievances

Most of the issues regarding general grievances appear to have escalated due to lack of proper communication among the parties. We are pleased that most of the issues have been summarily addressed by NSEL or otherwise resolved, and that NSEL is committed to further improving its existing community grievance mechanism.

## IFC's Role


IFC is supportive of the CAO process. As you are aware, IFC has been actively collaborating with the CAO team throughout this process and providing feedback as necessary. Over the past several months, we have volunteered all the necessary information about the project and have made senior staff available for all meetings with your team.

In addition, as we have done in the past, IFC is open to meeting with the complainants on a one-on-one basis, or with their representatives, if and when such meetings are requested. In fact, IFC has already met with the authors of the complaint (CIEL) and the representatives of the complainants. IFC held a briefing on agribusiness during the October 2008 World Bank/IMF Annual Meetings, which was attended by organizations representing the complainants. During these meetings IFC answered their questions about IFC's approach to ensuring sustainability by clients in the sugar industry and other industries in general. IFC has received no communication from the complainants since then.

Information on IFC's Social and Environmental Performance Standards and due diligence procedures is also available to the public at IFC's web site: <http://www.ifc.org/ifcext/sustainability.nsf/Content/EnvSocStandards>.

For your further information we attach Annexes with additional discussion on the relevant matters. We hope that subsequent meetings among the relevant parties continue to yield positive results.

Regards,

  
P.P. Oscar Chemerinski  
Director, Agribusiness Department  
IFC

Annexes/

## Annex 1: Chronic Renal Insufficiency (CRI)

CRI is a chronic disease which can be caused by a multitude of factors, including genetic predisposition, environmental exposure and/or behavior. There is no evidence linking CRI cases found within NSEL's workforce or in the surrounding communities, with the use of the fertilizers and herbicides utilized by NSEL. Moreover, incidence of CRI is considered elevated across sections of western Nicaragua, including areas where there is no sugar cane production and it also affects people who have not worked in sugar cane production.

NSEL utilizes fertilizers, herbicides (weed control), and biological control agents to control economically significant pests, and low-toxicity ripening agents which are permitted under Nicaraguan regulation and the standards set by the Ministries of Agriculture, Health and Natural Resource and Environmental Protection. Moreover, the fertilizers and herbicides used in the production of sugar cane by NSEL are approved by the US EPA, are of relatively low toxicity, and commonly used in sugar cane production around the world. NSEL control programs are consistent with Performance Standard 3 requirements.

For over 15 years, NSEL has invested in research and development of biological (fungal) controls and products in order to reduce the use of chemical agents. This is supported by a laboratory that raises biological control agents and is responsible for their propagation in the sugar cane fields.

The United States Renal Data System (USRDS) (<http://www.usrds.org/default.asp>) provides a wealth of statistics and data on end-stage renal disease (ESRD) in the United States as this disease is also a serious health problem in North America. In addition, published information from the US Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, and Division of Toxicology and Environmental medicine states that arsenic is capable of causing acute renal failure, as well as chronic renal insufficiency.

NSEL's operations are surrounded by three volcanoes: San Cristobal, Casitas and Chonco. Volcanoes are a well known source of environmental arsenic in soils and ground water. In Bangladesh, for example, arsenic contamination of ground water is well known and literature suggests that CRI-associated disease (e.g. diabetes mellitus) is related to arsenic exposure. Other possibilities exist, of course. The proposed study might shed some light into the root causes of CRI.

## Annex 2: Working Conditions

The company employs approximately 5,000 people and is the leading employer in the Department of Chinandega, Nicaragua. NSEL provides its employees the following benefits:

- Training: full training, safety orientation and work advancement opportunities within the company.
- Health and nutrition assistance: free medical care to employees, retirees and their families at company managed facilities and assistance for employees via provision of subsidized staples.
- Education: free primary education for the children of employees.

NSEL aims for a safe working environment for the entire workforce and provides health services for employees and families. NSEL has a Safety, Security and Hygiene Coordinator. Health and safety rules are outlined in a document approved by the Ministry of Labor. Its implementation is monitored through regular visits by government officials.

Protective and preventive actions are enforced to avoid accidents, injury and disease. These measures include training on various safety issues, the correct handling of equipment and materials, and proper record keeping. NSEL also provides free uniforms and safety equipment for all workers. In general, NSEL provides benefits to employees that go beyond those required by law to create a favorable work environment.

NSEL ensures compliance with all Nicaraguan labor regulations, including those regulating child labor, for employees hired either directly or through contractors. It also fully observes ILO Convention 138 on Minimum Age, and ILO Convention 182 on Worst Forms of Child Labor.



### Annex 3: Water Issues

*Water Quality:* Periodic testing of ground water by local and international laboratories has shown that the water quality in NSEL's facilities and surrounding communities is within WHO standards for drinking water. Samples are taken from 20 sites across the Department of Chinandega and 12 underground water sources at NSEL's sugar cane plantations.

We understand Yale University students commissioned a similar study related to water quality in the relevant community and that the results were consistent with the NSEL studies. We understand CAO has received copies of the Yale and the relevant NSEL studies.

*Water Availability:* NSEL aims to use ground water for irrigation in a responsible and sustainable manner, and, over time, has implemented various water saving initiatives. These include more efficient irrigation technology, including migrating from flood irrigation to pivot and drip irrigation systems, as well as, for example, mixing irrigation water with process water and organic fertilizer resulting from cane processing.

Use of groundwater does not equate to a depletion of ground water, and NSEL uses water from wells that have supplied water for agriculture for more than 30 years. We understand that the studies the company has provided to CAO show that the water table is stable.

#### Annex 4: Air Pollution

The burning of sugar cane fields in anticipation of harvest is a common practice in the production of sugar cane around the world, and although full mechanization can solve cane burning, it results in reduced employment. This is a concern raised by the complainants given NSEL increased mechanization.

NSEL already takes all reasonable and necessary precautions to assure worker and community health and environmental impacts are reduced to a minimum, even though such actions are not required by local law or the Nicaraguan government. The impacts of this activity can be mitigated by burning cane under certain meteorological conditions, as practiced by NSEL. The challenge lies in changing the behavior of third-party cane growers.

## Annex 5: Land Acquisition

The company has legal title over its plantations and there are no known legal claims against its property. NSEL's land acquisition procedure is strictly one of willing buyer willing seller at prices mutually agreed with sellers. Purchased land must have a clear title, be free of any litigation or conflicts, and be appropriate for sugar cane. Acquisition of land by NSEL has never involved any recognized Sutiaba communal lands.

IFC staff also met with the President of the Sutiaba Indigenous Community, Leon office, who has held his position for over 10 years and represents the majority. He confirmed that they have a good relationship with NSEL and that he was not aware of any infringement on currently recognized Sutiaba community lands.

Furthermore, the company was recognized as a supporter of Sutiaba health concerns through the annual sponsorship of international medical teams that provide free services. Sutiaba traditional communities are located predominantly in and around the town of Leon, while NSEL's operations are predominantly in or near Chichigalpa.



## Annex 6: Labor Unions

The company's workforce is unionized. NSEL also maintains strong ties to the local community and its leadership.

NSEL recognizes the right of workers to associate and unionize. Moreover, this right is protected under Nicaraguan law.

Ninety percent of NSEL's workers are currently organized and represented by five unions that are duly recognized by NSEL and the Nicaraguan Government: Sindicato Revolucionario Ronald Altamirano, Sindicato Democrático, Sindicato de Empleados, Sindicato Faustino Martínez, and Sindicato de Maestros.

The company considers it has an open, serious and transparent relationship with these unions. NSEL and the five unions have a signed collective bargaining agreement. The agreement grants workers and their families rights and overall benefits that exceed rights granted by National law.

There have been efforts to form a new union, which has faced opposition from the other existing unions, not from NSEL. To this date, supporters of the new union have not met the requirements provided by Nicaraguan law for the constitution and recognition of labor unions.

## Annex 7: IFC Public Disclosure

The results of IFC's due diligence are summarized in the Environmental and Social Review Summary (ESRS). Gaps elucidated during appraisal were adequately addressed in the Environmental and Social Action Plan (ESAP) agreed with the company.

As required by IFC's April 30, 2006 Policy on Disclosure of Information, which applies exclusively to IFC, IFC disclosed the ESRS and the ESAP. These documents are available at the IFC website ([www.ifc.org](http://www.ifc.org)).

NSEL made available to the public at the Mayor's Office in Chichigalpa a translation of IFC's ESRS and ESAP in September 2006.

As per Nicaraguan law, an executive summary of the EIA referred to in the complaint was made public by the Company in 2005 at the Mayor's Office in Chichigalpa. IFC reviewed the 2005 EIA document as a part of its evaluation process. The company later issued an Environmental, Health and Safety Assessment and Management Systems report dated October 2008 which was disclosed through a revised ESRS on October 10, 2008.

## Annex 8: Grievance Mechanisms

NSEL uses the ISO 9001-2000 management system, which incorporates grievance mechanisms. The management of grievances is subject to continual improvement as are other aspects of an integrated management system. Therefore, NSEL has recently upgraded its community grievance mechanisms and has hired new security employees mainly from the community.



## Annex 9: NSEL and the Community

NSEL works with and supports local communities. NSEL operations employ a significant portion of the Chichigalpa community and has a fully-staffed Community Relations Department supervised directly by the Corporate Director of Administration.

NSEL provides free services to workers, former workers, and their families and dependents. These include: a full-time social worker specialist, support to the public retirement home, free medical services to community members, free sugar donations to General Hospitals in Leon and Chichigalpa, support to local police and fire department, building of recreational parks for children (including mechanical toys, water systems, infrastructure, irrigation facilities, etc.). NSEL has built a public stadium, with lighting and has donated 7000 m<sup>2</sup> of land for the construction of a public school.

In addition, NSEL annually supports all expenses of a group of Spanish doctors that serve for free during two-weeks in Chichigalpa. NSEL also pays for plastic surgery and related expenses for burned children (70 surgeries per annum).

Currently NSEL is supporting four new community projects and in the process of developing five additional community projects in Leon and Chinandega.