



CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW

Robert Zoellick
President
World Bank Group
1818 H Street, NW
Washington, D.C. 20433

February 9, 2009

Re: Improper Interference in Pending CAO Case

Dear President Zoellick:

I am writing to express our concern that the International Finance Corporation's Agribusiness Department has improperly interfered in a complaint pending with the office of the Compliance Advisor Ombudsman (CAO), raising serious questions about IFC's commitment to both its Policy and Performance Standards on Social and Environmental Sustainability and its accountability mechanism.

Actions taken by the Agribusiness Department, including a series of inaccurate public statements in a January 29, 2009 response to a CAO report, reflect a greater interest in protecting its own reputation and the interests of IFC clients than in achieving IFC's mission to help people escape poverty and improve their lives. We respectfully request that you direct the Department to retract its recent response to the CAO, institute an inquiry into the Department's response, and designate a person to oversee the Department's activities with respect to the CAO's case. Details are provided below.

In March 2008, we helped communities in Nicaragua voice their concerns to the CAO about an IFC-financed project—an ethanol plant and associated sugarcane fields. One of the principal concerns in the complaint is an epidemic of chronic renal insufficiency (CRI) that has resulted in the death of thousands of community members. The communities believe the CRI epidemic is related to the activities of IFC's client, Nicaragua Sugar Estates Limited (NSEL). These activities, which began before IFC's involvement, are being continued and expanded through IFC's involvement. As the communities state in their complaint to the CAO, no scientific studies currently exist proving that CRI is – or is not – related to the activities of NSEL. Nonetheless, IFC funded the activities in question without any reference to or consideration of the epidemic, or to the long-standing concerns communities have expressed about NSEL.

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The communities are about to enter into sensitive negotiations with NSEL to resolve many of the issues raised in their complaint to the CAO. Specifically, the negotiations will cover the provision of improved health and social services to the communities and an epidemiological study of CRI and its causes. The negotiations, made possible through the efforts of the CAO, have been put in jeopardy by the Agribusiness Department's response to the CAO's Stakeholder Assessment Report. As noted above, the response includes false and misleading statements that could unjustly strengthen the bargaining position of NSEL at the expense of sick and threatened community members. The Department inaccurately asserts, for example, that the "CAO noted there is no clear causal connection between either NSEL or the sugar industry and CRI." In fact, the CAO's Report states "that there are no studies at the moment proving the existence of a direct causal link between sugar mill activities and CRI." Indeed, the Department prejudices the outcome of the proposed study to determine the cause of the CRI epidemic, even going so far as to question the utility of such a study. Moreover, the Department's response strongly implies that the CAO has made findings regarding the compliance of NSEL with the IFC's Performance Standards. To be clear: the CAO has made no such findings, nor should it at this stage—the process is still in the ombudsman phase, and findings by the CAO will not occur unless and until the complaint reaches the compliance phase of the CAO process.

We believe these actions by IFC staff damage the credibility of the IFC, undermine the CAO, and inappropriately and unjustly influence the negotiation process. The IFC should support the efforts of the parties to reach a resolution to their problems, reserving judgment on the client's compliance with the IFC's Performance Standards until the CAO has performed a compliance evaluation.

The imbalance of power inherent in a process in which local communities are negotiating with a large corporation is further exacerbated by the Department's implication that the negotiations are superfluous, instead of a serious commitment to achieving the goals of the IFC's policies. That the Department's response summarily dismisses the substantive and legitimate claims by the communities not only damages the communities' position but also reinforces the impression that the IFC is incapable of hearing the voices of those people it is meant to serve.

We believe this situation is part of a larger problem with which you and the Executive Directors are faced. We understand that the activities of this Department are symptomatic of a larger pattern in which IFC staff do not support the CAO process. Many IFC staff reportedly discourage their clients from cooperating with the CAO, being more interested in "winning" the case than improving conditions for affected communities. In 2006, when the IFC revised its safeguard policies, IFC Executive Vice President and CEO Lars Thunell assured us that protections for communities and their environment would not be weakened. The failure to perform due diligence in this case, followed by the Department's interference in the CAO process, demonstrates that the opposite is true. The upcoming three-year review of the Performance Standards will provide a good opportunity to explore this and other cases.



We respectfully request that you direct the Agribusiness Department to retract its erroneous response and investigate how the Agribusiness Department's response was prepared. Further, we request that you designate a person to supervise the Agribusiness Department's continued involvement in the CAO case. The stakes are too high in this case for the IFC to act with anything except the highest integrity. While we would be happy to discuss this further with you, I would encourage you to speak with those who are affected most by IFC actions, the communities. If you would like further information from CIEL, attorney Kris Genovese, kgenovese@ciel.org, has been working with these communities and in contact with the CAO, and is the most knowledgeable person at CIEL with respect to this situation.

With best regards,

A handwritten signature in black ink that reads "Daniel Barstow Magraw". The signature is fluid and cursive, with a long horizontal flourish at the end.

Daniel Barstow Magraw
President

Cc: Lars Thunell, IFC Executive Vice President and CEO
Meg Taylor, Compliance Advisor Ombudsman
Oscar Chemerinski, Director of Agribusiness Department
Eli Whitney Debevoise, U.S. Executive Director