

**Dialogue Process on Chronic Kidney Disease between ASOCHIVIDA and NSEL
Convened by CAO**

Closing Agreement for CAO Mediation between ASOCHIVIDA and NSEL

1. Background

- 1.1 On March 31, 2008, the Office of the Compliance Advisor / Ombudsman of the World Bank Group (CAO) received a complaint presented on behalf of communities from the Departments of Leon and Chinandega, raising their concern about adverse impacts on the health, environment and livelihoods of the members of those communities, attributed to the activities of Nicaragua Sugar Estates Limited (NSEL), a client of the International Financial Corporation (IFC).
- 1.2 The complaint met the CAO's eligibility criteria to proceed with further assessment. Following two trips by CAO to Nicaragua, both NSEL and the *Asociación Chichigalpa por la Vida* (ASOCHIVIDA) – a local organization created by ex-workers of the San Antonio sugar mill who are suffering from Chronic Kidney Damage (CKD) – expressed their will to enter into a dialogue process convened and facilitated by the CAO to seek solutions to the CKD issue. On November 20, 2008, they separately adhered to a Framework Agreement for the Dialogue on CKD.
- 1.3 The Framework Agreement set forth the rules for dialogue and determined that only two topics would be discussed, described as follows:
- a) ***To identify and address the causes of CKD.*** *The Adherents agreed to define jointly the criteria and principles for a Study to identify the causes of CKD, the findings of which would be transparent and reliable for all and would provide feasible solutions.*
 - i. ***Expected outcomes:*** *An Agreement on the criteria and principles to guide the Study. An Agreement to abide by the Study's findings and alternatives for solving the problem.*
 - b) ***Options for supporting local communities with a prevalence of CKD.*** *By good faith and under no legal obligation to do so, the adherents agreed to seek ways to alleviate the situation of the families that are suffering from CKD, involving local resources and State institutions.*
 - i. ***Expected outcomes:*** *The situation of the families suffering from CKD is alleviated.*
- 1.4 From February 2009 to date, NSEL and ASOCHIVIDA have had numerous dialogue meetings in which they have come to several agreements on the issues defined in the Framework Agreement. Some of the actions agreed upon have been implemented in whole or in part, and others are still pending implementation.
- 1.5 In June 2011, CAO announced to ASOCHIVIDA and NSEL that it would continue in its role as the convener and facilitator of the dialogue until June 30, 2012.

[initials / signatures of adherents]

2. Purpose

This Agreement details the agreements reached by NSEL and ASOCHIVIDA (hereinafter “the parties”) since February 2009 and the progress made in implementing them, plus the commitments made by the parties from the signing of this document forward.

3. Agreements Reached since February 2009 and Level of Implementation

3.1 The Search for the Causes of CKD

As an outcome of the dialogue, the parties reached the following agreements:

- After reviewing the candidatures presented by nine international research institutions, they selected by mutual agreement Boston University School of Public Health (BUSPH) to study the causes of the disease.
- They defined the questions to which BUSPH would respond, namely: a) What are the causes of CKD in the western region of Nicaragua?; and b) Are the practices of the San Antonio sugar mill in any way related to the causes of CKD?
- They agreed that funding for this research would come from a fund managed by CAO, with contributions from the *Comité Nacional de Productores de Azúcar* (the National Committee of Sugar Producers) and CAO itself.
- They approved the research plans submitted by BUSPH for six activities, which have now been completed: i) industrial safety and occupational health assessment at the San Antonio sugar mill; ii) study of the water quality; iii) qualitative review of interviews with physicians and pharmacists; iv) pilot study of cohorts; v) bio-marker research in sugar workers and other industries; and vi) urine bio-marker research among adolescents in different areas of Nicaragua.
- They approved a report summarizing the findings obtained to date.

3.2 Alleviating the Situation of Families Affected by CKD

As established in the Framework Agreement, all agreements detailed under this point should be considered implemented as donations on behalf of NSEL in favor of ASOCHIVIDA, performed in good faith and under no legal obligation to do so.

As a result of the dialogue, the parties have reached the following agreements:

- 3.2.1 Food Provision: NSEL has provided ASOCHIVIDA with a monthly food provision for the members of ASOCHIVIDA and their families since June 2009. This assistance was initially for 1117 families and then increased gradually to 2211. The amount of aid provided and committed totals US\$ 2,800,000 (two million, eight hundred thousand dollars). NSEL has expressed its commitment to continue providing this support until May 2013, and stated its willingness to continue renewing it on a yearly basis, insofar as the dialogue with ASOCHIVIDA continues and the economic conditions of the company allow.

- 3.2.2 Microcredit Fund: ASOCHIVIDA has a fund for US\$ 165,000 (one hundred sixty-five thousand dollars) that was donated by NSEL to be granted under favorable conditions to its members for microcredit projects. The fund is managed solely by the *Centro de Promoción del Desarrollo Local* (CEPRODEL) on behalf of ASOCHIVIDA. Of this fund, US\$ 65,000 (sixty-five thousand dollars) have been allotted to farm projects that are monitored by a specialized technician who is financed by NSEL. This is deemed a pilot project and, if positive outcomes are reached in terms of generating alternative sources of income and a willingness to pay on behalf of the borrowers, NSEL will consider the possibility of making additional contributions.
- 3.2.3 Production Project: NSEL has purchased an industrial poultry producing farm for US\$ 253,500 (two hundred fifty-three thousand, five hundred dollars) for the purpose of transferring all profits generated to ASOCHIVIDA as of June 2012, with a frequency to be determined. As discussed with ASOCHIVIDA, NSEL and CAO, NSEL will transfer both ownership and administration of this farm to ASOCHIVIDA in approximately four years.
- 3.2.4 Business Initiative Project: NSEL will provide 50% of the financial support needed (up to US\$ 86,970.65 – eighty-six thousand nine hundred seventy dollars and sixty-five cents) to implement the project designed and directed by NITLAPAN to accompany ASOCHIVIDA members in designing and developing business initiatives. The other 50% will be provided by the German Development Bank (DEG), an institution that provides financing for NSEL.
- 3.2.5 Housing Construction Project: Together with the *Instituto de Vivienda Urbana y Rural* (Institute of Urban and Rural Housing - INVUR), the Inter-American Development Bank (IADB), *Fundación Colmena*, the City Hall of Chichigalpa, the American-Nicaraguan Foundation (ANF), and NSEL, 100 homes will be built for ASOCHIVIDA members and their families for a total of US\$ 550,000 (five hundred fifty thousand dollars). The project has already been designed, the land for construction identified and purchased by NSEL, and the necessary authorizations issued. The beneficiaries were selected by the ASOCHIVIDA Board of Directors following assessment visits to the homes of members who applied for this bonus. Work began on June 20 and is estimated to conclude by late December if the weather permits. This is deemed a pilot project and, in the case of positive outcomes, NSEL will consider the possibility of making an additional investment.
- 3.2.6 Support for Home Improvements: NSEL has provided 1,300 sheets of zinc for ASOCHIVIDA members. The beneficiaries were selected by the ASOCHIVIDA Board of Directors based on the same assessment conducted for the housing project.
- 3.2.7 Better Health Services for Chichigalpa: In addition to the contributions made to the *Instituto Nicaragüense de la Seguridad Social* (Social Security Institute of Nicaragua - INSS) for the “*Julio Durán de Chichigalpa*” Health Center for an annual amount of approximately US\$ 210,000 (two hundred ten thousand dollars), NSEL has made an offer, jointly with the German Development Bank (DEG), to the Nicaraguan Ministry of Health (MINSAL) for an amount of US\$ 320,000 (three hundred twenty thousand dollars) for a

project to build a new health clinic and improved care for CKD patients, to meet the needs identified in the report prepared by Dr. Silver and Dr. Amador. MINSA accepted the offer, authorized NSEL to implement the construction directly, and authorized the drawings for the project. With a contribution from NSEL, the Town Hall of Chichigalpa purchased the necessary land, where MINSA has also planned to build a primary hospital. The construction will take approximately four months from the time the project is approved by MINSA. In addition, from April 2009, NSEL has delivered X-ray equipment to the Health Center under a commodatum agreement and is funding the services of a radiologist to operate it.

- 3.2.8 Other donations: Either directly or through other entities, NSEL has provided support to ASOCHIVIDA by donating school satchels, dental services, legal expenses, and feasibility studies for additional production projects, among other items.

4. Commitments the Parties made for Going Forward

- 4.1 The parties have accepted the findings obtained by BUSPH as a result of the research undertaken and, in view of the fact that the causes have not yet been identified, commit to the extent of their possibilities to continue collaborating with BUSPH in any follow-up research activities that it may decide to carry out.
- 4.2 The parties commit themselves to pursue a direct dialogue in good faith for the joint purpose of finding ways to alleviate the family situation of ex-workers of the San Antonio sugar mill who are suffering from CKD. Should this dialogue be suspended by decision of either of the parties, all undertakings made by both parties shall be left without effect. The dialogue shall be governed by the regulations annexed to this Settlement Agreement as Annex 1.
- 4.3 NSEL commits, in good faith and under no legal obligation, to:
- Complete total implementation of all agreements detailed under point 3.2 hereof.
 - Continue exploring new funding alternatives for projects to benefit ASOCHIVIDA members.

For as long as the dialogue between the parties continues, NSEL ratifies its commitment to refrain from carrying forward another dialogue process regarding CKD that does not involve ASOCHIVIDA.

- 4.4 ASOCHIVIDA commits to:
- Keep its members up-to-date on the dialogue process maintained with NSEL, any outcomes achieved, and all joint efforts to be made.
 - Continue with the organizational strengthening process, in order to obtain additional benefits from other institutions, whether public or private.
 - Organize the distribution of benefits obtained from NSEL or other donors among its members.

For as long as the dialogue between the parties continues, ASOCHIVIDA ratifies its commitment to refrain from taking any actions that might harm the good name of NSEL.

5. Follow-up

- 5.1 The parties accept that the CAO terminate its role as the convener and facilitator of the Dialogue on Chronic Kidney Damage and that, from the date this Agreement is signed to February 28, 2013, the CAO will follow up on the parties' fulfillment of their commitments. For this purpose, members of the CAO team will make up to three visits to Nicaragua during this period to meet with the parties and verify the progress of their direct dialogue. The parties commit to send the CAO a copy of any meeting minutes until February 28, 2013.
- 5.2 The parties also accept the CAO's offer to continue funding the services of the local consultant, Rogerio Cuadra, in support of ASOCHIVIDA's organizational strengthening, until February 28, 2013.
- 5.3 The parties also accept the CAO's offer to fund the services of the mediator Juan Dumas, should differences arise that cannot be solved through a direct dialogue between the parties. In this case, either of the parties would request the mediator's support.

Signed in the city of Leon on the 28th day of the month of June, on 3 (three) copies of this Agreement.

[signatures on behalf of NSEL, ASOCHIVIDA and three CAO witnesses]

[initials / signatures of adherents]

Annex 1: Regulations for the Dialogue between ASOCHIVIDA and NSEL

1. **Background:** The *Asociación Chichigalpa por la Vida* (ASOCHIVIDA) and Nicaragua Sugar Estates Limited (NSEL), hereinafter “the parties”, have maintained a dialogue since 2009 on the issue of Chronic Kidney Damage (CKD) under the auspices of the Office of Compliance Advisor / Ombudsman of the World Bank (CAO). Once the CAO’s involvement has concluded, the parties have agreed to continue a direct dialogue in good faith.
2. **Purpose:** These Regulations establish the rules for the direct dialogue that the parties are carrying forward in order to find ways to alleviate the situation of the families of ex-workers of the San Antonio sugar mill who are suffering from CKD.
3. **Parties:** ASOCHIVIDA and NSEL are the parties to this dialogue. Other individuals or organizations may also join as parties, provided there is an agreement between ASOCHIVIDA and NSEL. Those who join the process shall commit to accept and respect these regulations and any agreements already reached.
4. **Purpose of Dialogue:** Dialogue meetings shall center on the joint search for options, in good faith and under no legal obligation, to alleviate the situation of the families of ex-workers of the San Antonio sugar mill who are suffering from CKD.
5. **Principles:** The parties agree that the dialogue shall be carried out under the principles of equity, good faith, informed participation, transparency, accountability, effectiveness, efficiency, and respect for human rights and for all applicable legal frameworks.
6. **Meetings:** The parties shall meet at least once every two months. At the end of each meeting, they shall establish the date, start time, issues for dialogue, and place for the following meeting. Any subsequent changes shall be made by common agreement between the parties via phone or email.
7. **Minutes:** At the end of each meeting, the parties shall prepare minutes summarizing the issues addressed and agreements reached, to be signed by each of the representatives in attendance. Each party shall keep a signed copy. These minutes shall be prepared by NSEL. Agreements reached by the parties shall include the actions to be taken, responsibilities accepted by each party, sources of funding for implementation, and estimated deadline for completion.
8. **Publicity:** The representatives commit to share all information arising from each meeting with their representatives. The parties may release statements to the media to communicate the progress made in the dialogue, in strict keeping with the agreements reached, and abstaining from using these venues as opportunities to promote their positions to the detriment of the other.
9. **Conduct:** The parties commit to carry out the dialogue in a cooperative way, treating each other with full respect and sharing all information needed to move towards agreements. They also commit not to take any actions that might hinder or hold up the process.
10. **Representatives:** Each party shall maintain its own team of up to five representatives. These representatives shall have the power to decide on behalf of their constituency, whom they agree to

[initials / signatures of adherents]

keep informed of all progress and outcomes of the dialogue. Should any representatives not attend a meeting, they shall accept any and all agreements that their colleagues reach with the other party. The other party shall be notified of any change in membership of the team via a letter signed by the ASOCHIVIDA Board of Directors or the Administrative Department of NSEL, as the case may be.

11. Guests: By mutual agreement, the parties may invite representatives of Boston University and other academic institutions to provide information on developments in the search for the causes of CKD. Likewise, the parties may invite public agencies to provide information on any topics that may be relevant to the dialogue.
12. Advisors: Each party may attend the meetings with the advice of up to two advisors. The advisors of each of the parties shall have a voice in the meetings to the extent that the other party is in agreement.
13. Observers: The parties may by mutual agreement invite persons or organizations to act as witnesses of the dialogue that they carry forward.
14. Duration: Considering that the CKD issue is extremely complex and that finding solutions requires multiple efforts, the parties set no deadline for terminating the dialogue process.
15. Termination: Either of the parties has a right to withdraw from the process at any time. For this purpose, their representatives shall present a written statement explaining why they do not wish to continue with the dialogue and indicating which of their needs are not being fully met. The parties shall meet to discuss these concerns after which, should no agreement be reached, the party that so wishes may terminate its participation in the dialogue.

[signatures on behalf of NSEL and ASOCHIVIDA]

[initials / signatures of adherents]