



CAO ASSESSMENT REPORT

Complaint regarding IFC investment in Ingenio Montelimar (Project # 32253)

Municipio San Rafael del Sur, Nicaragua

February 2016

Office of the Compliance Advisor Ombudsman (CAO)
for the International Finance Corporation (IFC) and
Multilateral Investment Guarantee Agency (MIGA)
www.cao-ombudsman.org

About the Compliance Advisor Ombudsman

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective, and constructive, and to enhance the social and environmental outcomes of those projects.

For more information, see www.cao-ombudsman.org

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LIST OF ACRONYMS

AMBeD	Asociación Montelimar Bendición de Dios
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
MINSA	Nicaraguan Ministry of Public Health
NAVINIC	Consortio Naviero Nicaragüense
SOMO	Centre for Research on Multinational Corporations

1. OVERVIEW

In October 2015, CAO received a complaint from a local organization representing members of communities residing in close proximity to the Ingenio Montelimar (“Montelimar Sugar Mill” or “the mill”) in the Municipality of San Rafael del Sur, Nicaragua. The mill is operated by Corporación Montelimar, which has a project supported by IFC (“the project”). The complaint raises a number of issues concerning the project, including health, environmental, and social impacts, and IFC’s compliance with its performance standards. The company and complainants have expressed during CAO’s assessment of the complaint the desire to hold a meeting to exchange information about the issues raised in the complaint and decide whether and how they should continue this initial engagement towards a productive dialogue under CAO’s auspices. This report provides an overview of the assessment process, including a description of the project, the complaint, the assessment methodology, and next steps.

2. BACKGROUND

2.1 The Project

According to IFC, Corporación Montelimar (“company”), formerly known as *Consortio Naviero Nicaraguense* (Navinic), owns the Montelimar Sugar Mill, which is the smallest of only four sugar mills in Nicaragua, with a milling capacity of 2,300 tons of sugar cane per day. According to IFC, the project involves an increase in the company’s annual sugar production including the acquisition of 1,628 hectares (ha) of land to increase planted areas, investment in irrigation and other infrastructure in the field, increasing milling capacity, acquiring additional harvesting and transportation equipment, and funding incremental working capital needs. The project currently is on IFC’s supervision. The total project cost is US\$38 million, and IFC has provided a \$15 million A Loan for IFC’s own account.

2.2 The Complaint

The complaint was submitted by the *Asociación Montelimar Bendición de Dios* (AMBeD) with support from an international NGO, the Centre for Research on Multilateral Corporations (SOMO), located in the Netherlands. AMBeD is comprised of 700 members from communities living in proximity to and neighbouring the company’s sugar cane fields; among them workers, former workers, and family members of those that have died due to Chronic Kidney Disease. The complaint raises concerns regarding a range of health, environmental and social issues--including the impact of Chronic Kidney Disease on workers and former workers, water availability and quality, and resettlement and land titling, among others- and IFC due diligence. AMBeD has requested the intervention of both CAO’s Dispute Resolution and Compliance functions. AMBeD is represented by its Board, and the organization has requested that all the other members’ names be kept confidential at this time for the purpose of this complaint.

3. ASSESSMENT PROCESS

3.1 Methodology

The purpose of a CAO assessment is to clarify the issues and concerns raised by the complainants, to gather information on how the company and other stakeholders see the situation, and to determine how the parties would like to address the complaint issues with CAO’s assistance.

The CAO complaint handling process ensures that the information gathered is not used to make any judgments about the merits of the complaint. (See Annex A for a complete description of the CAO complaint handling process.)

In this case, CAO’s assessment of the complaint consisted of:

- a review of IFC project documentation, as well as documentation presented by the company and the complainants;
- meetings with the Assembly and Board of Directors of AMBeD;
- calls with the SOMO;
- meetings with senior management and staff of the company;
- meetings with the IFC project team; and
- site visits to community members' homes and fields, as requested by AMBeD.

3.2 Next Steps

As a result of a series of meetings and discussions with the parties, CAO found that while the parties hold divergent views about the issues raised in the complaint, both of them have expressed the desire to hold a meeting to exchange information about the issues raised in the complaint and decide whether and how they should continue this initial engagement towards a productive dialogue under CAO's auspices. This meeting has been scheduled for the first week of February 2016 and will be held by staff from CAO's Dispute Resolution function.

In this initial meeting, parties will exchange information on topics such as the impacts and prevention of Chronic Kidney Disease; environmental impacts of the company's operations and mitigation measures; land titling and resettlement processes; grievance redress mechanisms, and community engagement.

Annex A. CAO Complaint Handling Process

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective, and constructive and to enhance the social and environmental outcomes of those projects.

The initial assessment is conducted by CAO's Dispute Resolution function. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the complainant(s); (2) gather information on how other stakeholders see the situation; and (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function, or whether the case should be reviewed by CAO's Compliance function.

This document is a preliminary record of the views heard by the CAO team, and explanations of next steps depending on whether the parties choose to pursue a CAO Dispute Resolution process or prefer a CAO Compliance process. *This report does not make any judgment on the merits of the complaint.*

As per CAO's Operational Guidelines,¹ the following steps are typically followed in response to a complaint that is received:

- Step 1: **Acknowledgement** of receipt of the complaint
- Step 2: **Eligibility:** Determination of the complaint's eligibility for assessment under the mandate of the CAO (no more than 15 working days)
- Step 3: **CAO assessment:** Assessment of the issues and provide support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function, or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 120 working days.
- Step 4: **Facilitating settlement:** If the parties choose to pursue a collaborative process, CAO's dispute resolution function is initiated. The dispute resolution process is typically based or initiated by a Memorandum of Understanding and/or a mutually agreed upon ground rules between the parties. It may involve facilitation/mediation, joint fact-finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goal. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the parties affected².

¹ For more details on the role and work of CAO, please refer to the full Operational Guidelines: http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines_2013.pdf

² Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has closed the complaint and transferred it to CAO Compliance for appraisal.

OR

Compliance Appraisal/Investigation: If the parties opt for a Compliance process, CAO's Compliance function will initiate an appraisal of IFC's/MIGA's environmental and social due diligence of the project in question to determine whether a compliance investigation of IFC's/MIGA's performance related to the project is merited. The appraisal time can take up to a maximum of 45 working days. If an investigation is found to be merited, CAO Compliance will conduct an in-depth investigation into IFC's/MIGA's performance. An investigation report with any identified non-compliances will be made public, along with IFC's/MIGA's response.

Step 5: **Monitoring** and follow-up

Step 6: **Conclusion/Case closure**