



## CAO Progress report – Ingenio Montelimar-01/Montelimar Environs/Nicaragua

### BACKGROUND

#### The Project

The Montelimar Corporation (CM – *Corporación Montelimar*), previously known as the Nicaraguan Shipping Consortium (Navinic – *Consortio Naviero Nicaragüense*) owns the smallest of the four sugar mills existing in Nicaragua. CM is a client of the International Finance Corporation (IFC) and has a milling capacity of 2,300 tons of sugarcane per day. IFC's project with CM aims at increasing the company's annual production of sugar and includes: the acquisition of 1,628 hectares of land to increase the area for planting, investment in irrigation and other infrastructure in the field, an increase in milling capacity, purchase of additional harvesting and transport equipment, and financing incremental needs for working capital. The total cost of the project is US\$38 million, and the IFC provided an A-Loan of US\$15 million.

#### The Complaint

In October 2015, the CAO received a complaint about the IFC project with *Ingenio Montelimar* (the Montelimar Plant). The complaint was filed by AMBED (*Asociación Montelimar Bendición de Dios*), with the support of an international nongovernmental organization, SOMO (Center for Research on Multinational Corporations). AMBED is made up of 316 community members who live in areas close to and adjoining the company's

sugarcane fields. The association members include workers, former workers with chronic kidney disease (CKD), and relatives of people who have died from this illness. The complaint raises concerns regarding a number of issues involving health, environmental, and social issues, including the impact of CKD on workers and former workers, availability and quality of water, and resettlement and land ownership, among others, as well as the IFC's due diligence.

### CAO ASSESSMENT

The CAO determined that the complaint was admissible in October 2015 and conducted an assessment trip in November 2015. Following a series of meetings and conversations with the parties, the CAO determined that, in spite of the fact that the two parties have differing points of view regarding the issues put forward in the complaint, both expressed the desire to meet to exchange information and decide whether and how they should move forward with this initial commitment, with a view to a productive dialogue under the auspices of the CAO. For more information on the assessment stage of this case, see the assessment report published on the CAO website:

[http://www.cao-ombudsman.org/cases/case\\_detail.aspx?id=242](http://www.cao-ombudsman.org/cases/case_detail.aspx?id=242)

## **THE CAO's DISPUTE-RESOLUTION PROCESS**

### **The first meeting to exchange information**

The first informational meeting between the parties took place on February 5, 2016. On that occasion, AMBED had the opportunity to present in detail the concerns contained in the complaint, and the parties agreed to meet again so that CM could offer its responses to each one of the points raised by AMBED.

During this first exchange, the parties agreed to start a dialogue process facilitated by the CAO's mediation team.

### **Starting the dialogue process**

Before starting the dialogue process, the CAO provided training in collaborative negotiation to both parties, to strengthen their capacity to take part in the process effectively.

For a period of 11 months, the CAO interacted with the parties, both together and separately, to help them work toward a mutually acceptable agreement. After several bilateral meetings and six joint meetings, CM and AMBED signed a first agreement in January 2017.

### **The January 2017 Agreement**

The agreement signed by the parties establishes actions to support CM workers and former workers who have worked under the current management (from 2002 onwards), and who are prevented from working due to illness, accident, or old age. Expanding on the actions that CM has been engaged in since adopting its Corporate Social Responsibility strategy to benefit its former workers, the agreement combines temporary short-term benefits related to health and diet with sustainable medium-term actions to create alternative sources of income and

employment. At the same time, it expresses the parties' decision to collaborate with national authorities to improve health care services in communities neighboring the Montelimar Plant. The agreement also incorporates the parties' decision to channel individual complaints by former workers or neighbors through grievance mechanisms created by CM.

### CM support for its former workers in matters of health care

The agreement establishes that all former CM workers who meet the respective requirements can sign up for its Health Support Program, which offers them: education and training for dealing with the illnesses; advice on and assistance with procedures for obtaining their pensions from the INSS (Nicaraguan Institute for Social Security) or for filing appeals when the amount of their pensions is very small; medical care at the CM clinic; support with basic medications; access to transportation for medical consultations; and assistance in making arrangements for exams with social security and for hemodialysis treatments. It was agreed, furthermore, that CM would provide monthly food support for anyone actively engaged in applying for a pension who does not have other sources of income, for a maximum of four months. All of these benefits cease when the beneficiary completes the pension application and has access to medical care and medications from the INSS or the public health system.

### Setting up an inter-institutional commission

With the aim of contributing to efforts by the Ministry of Health (MINSa) and the INSS to offer better health care in the area and facilitate access to pensions, the parties agreed to propose setting up an inter-institutional commission at the local

level, with the participation of competent national and local authorities.

#### Creation of a cooperative

With respect to creating jobs and generating income, the parties agreed that CM would incorporate into its Corporate Social Responsibility (CSR) strategy the development of a textile manufacturing project to provide for its annual demand for uniforms. The project involves setting up a cooperative of former workers who can no longer work for CM for reasons of illness, accident, or old age. CM undertook to pay the legal costs to set up the cooperative, collaborate in the financial assessment of the project, make the initial investment to install the premises, acquire machinery and purchase raw materials, train the members of the cooperative and its workers, cover the initial operating costs, and allow participation by the cooperative in bidding on the purchase of uniforms. The parties also agreed that AMBED would develop a project to supplement this initiative with another one for financing individual businesses.

#### Setting up a committee to respond to grievances

In the dialogue, it was also agreed that the mechanisms that CM has for dealing with internal and external grievances can address several of the issues raised in AMBED's complaint before the CAO. However, it was still necessary to undertake a greater effort to make its existence and operations known. Accordingly, the parties agreed that AMBED would act as an additional channel for publicizing the existence of this mechanism and channel the grievances of workers, former workers, and members of the community in general. By common agreement, the parties established a committee for responding to grievances with the participation of two representatives of

each one of the parties and agreed on procedures for its operation.

#### **Implementation of the first agreement**

Since the signing of the agreement, the parties have held ten other dialogue meetings to follow up on implementation of the signed agreement and address the other issues raised in the complaint.

#### Health support program

As of the publication of this progress report, 20 members of AMBED have taken part in the Health Support Program. Seven of them obtained their pensions, three had a negative response on their pensions, nine who do meet the requirements to receive a pension are seeking options to secure a reduced pension, and one former worker dropped his pension application because he emigrated to Costa Rica. So far, 279 packages of food assistance have been delivered as of August 2018, substantially exceeding the initial agreement of granting a maximum of up to four months per person. Because of the crisis currently affecting Nicaragua, and specifically the INSS, CM states that there has been no progress made with the INSS for the nine individuals who are engaged with local INSS authorities to find a solution to their situation and obtain the pensions owed; however, CM has announced that it will maintain its support for the food packages.

#### Update on the inter-institutional commission

The parties sent letters and undertook various actions before health authorities, but they could not make progress on this front, due to the financial situation of the INSS. It remains to find other paths for improving health services in the area, yet CM is still approaching these institutions to address specific cases.

### Establishing the cooperative

The cooperative for the textile project has been established, with 144 members, the premises have been renovated, the machinery has now been bought, and the foreman has been hired. In addition, the work crew has been recruited and trained, the workshop is producing uniforms for CM pursuant to its requirements, and the cooperative has been certified by the competent authority, which is the Ministry of the Family, Community, Cooperative and Associative Economy (MEFCCA). The cooperative was officially launched on November 24, 2018.

AMBED has also contacted a micro-finance organization (NITLAPAN) and is preparing a project for the development of individual businesses. With the socio-political situation in Nicaragua, it has not been possible to advance toward this goal, but AMBED is anxious to execute this project to benefit its members and families.

### Update on the Grievance Committee

When the Grievance Committee began its activities, the CAO provided training for CM and AMBED on best practices for the operation of grievance mechanisms. Since November 29, 2016, the committee has met monthly to follow up on treatment of complaints presented through AMBED. From May to July of 2018, meetings could not be held due to the country's socio-political crisis. The committee operates and is governed in accordance with the internal regulations agreed upon by the parties. CM received a total of 31 grievances in 2017, and 18 from January to April of 2018. Out of a total of 49 grievances registered, 48 have been resolved (98 percent), with the settlement of one grievance still pending. The grievances submitted allege harm to crops due to aerial applications of ripener, disruptions due to burning of sugarcane, concerns about the amount of water

available for human consumption, non-compliance with established work practices, and issues with transportation logistics for CKD patients receiving hemodialysis treatment in Managua hospitals, among other concerns. With the creation of this additional channel for submitting grievances, dialogue has helped to address the concerns of CM workers, former workers, and neighbors, and at the same time, has become an instrument for continuous improvement of company operations.

To deal with AMBED's concern regarding water quality in neighboring communities around the Montelimar Plant, which was brought before the grievance committee on several occasions, the parties agreed to pursue a process of participatory monitoring. The CAO provided training for the parties to enable them to decide how to structure the process, so they could better adjust it to their situation and their needs. The aim of participatory monitoring was to generate credible and reliable information on water quality for all interested parties, paying special attention to communities' environmental concerns. In this way, the discussion on water quality could be based on objective data rather than subjective perceptions. The Participatory Monitoring Committee was set up by the parties, and is made up of two representatives of AMBED and two of CM. Acting together and by consensus, they identified 12 sites where samples are to be taken and analyzed using the following parameters for water quality: physical-chemical; agrochemical (organophosphates and chlorides); heavy metals (cadmium and arsenic); and microbiological (fecal and thermo-tolerant coliforms, and totals). Residents from each community were invited to witness the taking of samples, and an AMBED representative accompanied the transfer of samples to the independent laboratory, the Center for Research on Water Resources of the National Autonomous University of Nicaragua (CIRA-UNAN).

Owing to the country's political crisis (see below), and due to the onset of winter, samples remain to be taken at two of the 12 agreed upon sites, as well as one additional sample to measure the presence of lead, at the request of an AMBED member. On August 29, 2018, CM presented and submitted a hard copy of the results of the analyses conducted by the laboratory to the committee. The results showed that there are no parameters involving physical, chemical, or agrochemical factors, or heavy metals, that could cause any harm to human health. Nevertheless, microbiological parameters were found outside the norm, for which guidance must be requested from MINSA to restore the quality of drinking water at those sites that showed altered results. The parties agreed that the parties to the committee will agree on the period for conducting participatory monitoring for taking samples, and the kinds of analysis to be performed. The lessons of this initial exercise will support continuous process improvement. AMBED and CM have presented the official results to the representatives of the communities where the water sampling was done, in order to inform them and to build trust in the process.

### **Discussion of the causes of CKD**

With regard to AMBED's concern about the causes of CKD, and in particular, about work practices that are used at the Montelimar Plant, the parties invited scientists from Boston University to make a presentation on available scientific knowledge to date, and to report on the research on this subject that is under way in Nicaragua and in other countries in Central America and around the world. CM also gave a detailed presentation regarding its labor standards for the jobs of greatest interest to AMBED, so they could also inform their own members, and asked Boston University for preliminary recommendations on its labor practices.

### **Additional support for AMBED members**

In agreement with AMBED, CM has undertaken other activities to support AMBED members, such as donations of clothing and assistance with funeral costs for the deceased; economic assistance for the interactions of the AMBED Board of Directors with other nongovernmental agencies that could help to improve living conditions for AMBED members; help with the processing of the association's legal entity; and support for the association members and for the association itself, such as delivery of a computer and a grant so that an AMBED executive can enhance her knowledge of computing.

### **The socio-political crisis in Nicaragua and challenges to the CAO process**

Unfortunately, since April 2018, Nicaragua has fallen into an acute socio-political crisis with violent characteristics that regrettably has still not been resolved. Faced with this situation, the World Bank Group established a series of security requirements that have restricted the CAO mediation team's ability to continue to work normally with the parties. For example, due to the travel ban established on travel to Nicaragua and within the country, CAO was not able to facilitate joint meetings between April and July 2018. However, CAO remained in close contact with the parties, who continued to work together during this difficult time. Since August 2018, the CAO team has been able to resume its work on the ground and meet the parties in both bilateral and joint sessions, thanks to the support provided by the World Bank Group security team.

### **Next steps**

The CAO will continue to offer support in order to ensure that all issues raised in the complaint are addressed at the negotiating table, with a view toward finding solutions, and so that the agreements that have been signed can be implemented to the satisfaction of both parties. For further information on this case, see the following CAO link:

[http://www.cao-ombudsman.org/cases/case\\_detail.aspx?id=242](http://www.cao-ombudsman.org/cases/case_detail.aspx?id=242)