

**Dispute Resolution Conclusion Report  
Regarding Complaint Received in Relation to IFC's Investment in Montelimar Sugar Mill  
(#32253) in Nicaragua**

**May 2023**

**SUMMARY**

This Conclusion Report documents the assessment and dispute resolution processes in relation to a complaint filed to the Office of the Compliance Advisor Ombudsman (CAO) concerning a sugar mill project in Nicaragua supported by the International Finance Corporation (IFC), and offers some reflections and lessons learned from the process.

The IFC client is the Montelimar Corporation/Corporación Montelimar (CM), previously known as the Nicaraguan Shipping Consortium/Consortio Naviero Nicaragüense (Navinic), which has owned a sugar mill in San Rafael del Sur, Nicaragua, since 2002. IFC invested in the project in October 2013.

The complaint was filed by a community organization called Asociación Montelimar Bendición de Dios (AMBED), with the support of an international non-governmental organization, the Center for Research on Multinational Corporations (SOMO). AMBED members live in the vicinity of CM's sugarcane fields in San Rafael del Sur and Villa El Carmen. Most of them are former workers of the sugar mill who suffer from chronic kidney disease (CKD) or are relatives of former workers who died from this illness. The complaint raised several environmental and social concerns, including, but not limited to, health issues, the impact of CKD on current and former workers, the availability and quality of water, resettlement and land ownership, as well as concerns regarding IFC's due diligence.

CAO determined that the complaint was eligible in October 2015 and conducted an assessment trip in November 2015. During the assessment, both parties expressed an interest in participating in a meeting to exchange information about the issues raised in the complaint and then decide whether and how they might engage in a productive dialogue with CAO's assistance. The parties formally started a CAO-facilitated dispute resolution process in 2016. They reached a partial agreement in January 2017 and a final agreement in October 2019. CAO monitored the implementation of both agreements until January 2023. Since the parties have informed CAO that the agreements have been implemented to their mutual satisfaction in accordance with CAO's Policy, CAO concluded the dispute resolution process and closed the case.



*AMBED's President and Corporación Montelimar's CEO shake hands after the signing of the final mediation agreement, October 2019*

## **BACKGROUND**

### **The Project**

According to IFC, Corporación Montelimar, S.A. (CM), located in San Rafael del Sur, owns one of the four sugar mills in Nicaragua. Its main operations include sugar production and energy co-generation from biomass (sugar bagasse). As of 2022, CM has a milling capacity of 4,112 tons of sugarcane per day. The sugar cane planted area was 6,063 hectares (ha) and total sugar production volume was 62,900 metric tons in the 2022-23 cycle. The co-generation operation of Montelimar Green Power now accounts for around 30 percent of revenues (total US\$63 million in 2021). In 2013, IFC provided an A-Loan of \$15 million to CM (IFC project number 32253). IFC's project aimed to increase the company's annual production of sugar and included the acquisition of 1,628 ha 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 was \$38 million, with an environmental and social risk rating of Category A.<sup>1</sup>

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<sup>1</sup> IFC defines Category A projects as "business activities with potential significant adverse environmental or social risks and/or impacts that are diverse, irreversible, or unprecedented."

## **The Complaint**

In October 2015, CAO received a complaint in relation to the IFC project with CM's sugar mill in San Rafael del Sur. The complaint was filed by AMBED with the support of the international NGO, SOMO. At the time, AMBED reported to have 789 community members who lived in areas close to, and adjoining, the company's sugarcane fields in San Rafael del Sur and Villa El Carmen. According to AMBED, most of them were former workers who suffered from CKD or were relatives of former workers who died from the illness. The complaint raised several environmental and social concerns, including health issues, the impact of CKD on current and former workers, availability and quality of water, and resettlement and land ownership, as well as concerns regarding IFC's due diligence.

In this report, CM and AMBED are referred to as "the parties". CM's sugar mill in San Rafael del Sur is referred to as the "Montelimar Mill".

## **CAO Assessment**

CAO found the complaint eligible in October 2015 and conducted an assessment trip in November 2015. Following a series of meetings and conversations, the parties expressed that they had differing points of view regarding the issues put forward in the complaint. However, they were willing to meet to exchange information and then decide whether and how they would move forward toward a productive CAO-facilitated dialogue.

CAO documented outcomes from the assessment process in an assessment report, which was published in February 2016 on CAO's website.<sup>2</sup>

## **DISPUTE RESOLUTION PROCESS**

### **Overview of the Dispute Resolution Process**

During CAO's assessment, the parties agreed to start the process by exchanging information. During their first meeting on February 5, 2016, AMBED had the opportunity to present the concerns contained in the complaint in detail, while CM representatives listened carefully and asked questions. At a second meeting, held on April 1, 2016, CM provided responses to each of the points raised by AMBED. AMBED welcomed the information as well as the quick decisions that CM made to address some of the concerns that AMBED had presented in the first meeting. As a result of this exchange, the parties agreed to start a dialogue process facilitated by CAO's mediation team to improve the living conditions of AMBED's members and support CM's process

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<sup>2</sup> <https://officecao.org/MontelimarAReport>

to continuously improve their labor practices. The parties agreed that economic compensation would not be an issue for discussion.

Before starting the dialogue process, CAO provided training on collaborative negotiation to representatives of both parties to strengthen their capacity to participate in the process effectively.

At that point, CM expressed concern that AMBED's membership included many people who had not worked for the company. While they understood the needs of those individuals and empathized with them, CM expressed that they wanted to focus their support on those who had worked for the company under current management (since 2002). To address CM's concern, and with the CAO team's support, AMBED conducted a census to update the number of members and information about their needs and work history. On June 5, 2016, AMBED delivered a presentation during a dialogue table meeting with the company and provided a comprehensive overview of their membership, which now totaled 316 members, and their most pressing needs.

From February 2016 until October 2019, the parties held 21 joint meetings with CAO's support and demonstrated a solid commitment to the dialogue process. They reached an interim agreement in 2017 and a final settlement agreement in 2019. Those agreements were fully implemented, despite a severe and complex socio-political crisis in the country in 2018 and the COVID-19 pandemic that started in 2020.



*Dialogue table meeting facilitated by CAO mediators, August 2019*

## **Key Provisions of Agreements and Implementation**

The agreements signed by the parties included several actions aimed at supporting CM workers and former workers who had worked for the company after 2002 and had then stopped working due to illness, accident, or old age. The agreements expanded on actions CM was already engaged in since adopting its 2014 Corporate Social Responsibility (CSR) strategy to include temporary short-term benefits related to health and food aid as well as sustainable medium-term actions to create alternative sources of income and employment. Further, the parties agreed to collaborate with national authorities to improve health care services in communities neighboring the Montelimar Mill. The agreements also incorporated the parties' decision to channel individual complaints by active and former workers as well as neighbors through CM's existing mechanism to resolve grievances and suggestions ("CM's grievance mechanism") and to establish a participatory water monitoring initiative.

The agreements reached by the parties are available in English and Spanish on CAO's website.<sup>3</sup>

### ***Health care support for former workers***

The parties agreed that all former workers who worked for CM for a minimum of two years since 2002, and who had no access to a pension and health care services, would be eligible to sign up for CM's Health Support Program, which offered them:

- education and training for dealing with their illness;
- medical care at CM's clinic;
- support with basic medications;
- access to transportation for medical appointments;
- assistance in planning for medical exams and for hemodialysis treatments; and
- advice on and assistance with procedures to obtain their pensions from the Nicaraguan Institute for Social Security (INSS) or to appeal when the amount of their pensions was very small.

The parties also agreed that CM would provide monthly food support for anyone actively applying for a pension who did not have other sources of income, for a maximum of four months, which is the time estimated for them to get their pension. All these benefits would cease when the beneficiary completed the pension application and had access to medical care and medications from INSS or the public health system.

Of the AMBED members, 22 were eligible for, and benefited from, the Health Support Program. Of these, 6 obtained their pension, 3 unfortunately passed away while the process was ongoing, 3 were re-engaged by CM to work, and 2 of them dropped their applications. The remaining 8 members who did not meet the requirements to receive a pension continue to seek options to secure a reduced pension. So far, over 1,000 food assistance packages have been delivered, substantially exceeding the initial agreement of granting a maximum of 4 months' worth of food

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<sup>3</sup> <https://officecao.org/MontelimarAgreements>

supplies per person. CM has reaffirmed their commitment to support the 8 former workers who have not yet received their pension and has maintained temporary food supply for them.

CM provides continued support to over 100 hemodialysis patients to travel to Managua every other day to access their treatment and return home. During the COVID-19 pandemic, the patients were also provided with face masks, liquid soap, and alcohol to prevent spread of the virus both during transportation and at home.

### ***Improving access to health care***

To contribute to efforts by the Ministry of Health (MINSA) and INSS to offer better health care in the area and facilitate access to pensions, the parties agreed to facilitate the establishment of an inter-institutional commission at the local level, with the participation of competent local and national authorities. However, despite numerous attempts, convening these authorities proved more complicated than expected. The parties agreed to change course and work separately with each authority on specific health care initiatives. As a result, in 2022, the parties organized three “Health Days” in three different communities, during which the local health center brought physicians to the communities to administer medical checks and tests. The parties are currently analyzing how to follow-up on this initiative.

Following AMBED’s request, CM agreed to provide temporary health care support to 33 of their members who did not have access to health services in their communities. CM granted them access to the company’s medical clinic and covers basic medication needs as well. In total, 87 medical appointments have taken place. This support is intended to last until they can have access to public health care units.

### ***Income generation opportunities***

The parties agreed that CM would develop a local textile manufacturing project as part of its CSR strategy to meet its annual demand for uniforms. The project involved setting up a cooperative, whose members would be former workers who could no longer work for CM because of illness, accident, or old age. CM undertook the following steps:

- paid the legal costs to set up the cooperative;
- collaborated in the financial assessment of the project;
- made the initial investment to install the premises;
- acquired machinery and purchased raw materials;
- trained the members of the cooperative and its workers;
- covered the initial operating costs; and
- allowed the cooperative to participate in the bid for the purchase of uniforms.

The cooperative was established in 2018 under the name of Cooperativa de Servicios Múltiples Manantial de Agua Viva (COSEMUNAV). It has 171 members, who are all former workers. It owns a textile factory that started off with 7 workers and now employs 18 community members, who operate 25 machines. The factory is financially sustainable, serving 10 corporate clients with sales

exceeding \$250,000 per year, allowing the distribution of growing dividends to its members for 5 years in a row. CM is the factory's main client, accounting for 56 percent of the factory's sales. Negotiations with new potential corporate clients are underway.



*AMBED and company visit of the textile factory on its inauguration day, November 2018*

To complement this initiative, the parties also agreed that AMBED would develop another project to finance individual businesses. AMBED and CM agreed to pilot a small microcredit initiative. CM deposited the funds in a special bank account under AMBED's control, before the project was put on hold due to the pandemic for nearly 18 months until it could be resumed. Unfortunately, in the fall of 2021, AMBED's advisor and treasurer confessed they had diverted the funds for personal use. This had a negative impact on the trust built between the parties. AMBED's assembly decided to exclude these two people from their organization and formally requested CM to continue with their relationship. After consulting internally, CM decided to continue to work with AMBED and increase their efforts to support them. They offered AMBED help to recover the diverted funds and obtain legal status by setting up a new cooperative, which AMBED had been pursuing unsuccessfully for years. Soon after, the parties managed to recover almost 90 percent of the funds. Additionally, CM offered to further increase the resources committed to the microcredit initiative, put in place stronger safeguards to guarantee good management, and get technical support from NITLAPAN, an organization specializing in community development and

microfinance initiatives. The project resumed with 7 small-business projects fully financed and underway, 71 percent of which are owned and run by women.

In addition, the parties are working to set up a new cooperative that will give AMBED the legal status they have been seeking and allow them to develop new income generation projects with support from the company. CM hired an external consulting organization to support both parties to identify feasible business opportunities. The organization is expected to produce a project profile for discussion in the first half of 2023.

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

The parties agreed that CM's grievance mechanism could address several of the issues raised in AMBED's complaint to CAO. However, the parties identified the need to make the existence and operations of the grievance mechanism better known to the wider community. Accordingly, the parties agreed that AMBED would conduct outreach activities to raise community members' awareness about the mechanism, as well as act as an additional channel for grievances brought by workers, former workers, and members of the community. The parties established a Grievance Committee comprising two representatives of each party to discuss and follow-up on grievances submitted through AMBED. They also agreed on its operating procedures.

When the Grievance Committee began its activities on November 29, 2016, CAO provided training to CM and AMBED on best practices for the functioning of grievance mechanisms. Since that time, except with a few interruptions due to the country's socio-political crisis and the pandemic, the Grievance Committee has met monthly to follow up on how complaints were being addressed. CM received a total of 28 external grievances between 2016 and 2022. Only 1 was pending settlement at the time of writing this report and depends on action by the Nicaraguan state. Grievances submitted to the mechanism include concerns about damage to crops due to aerial applications of ripener, disruption due to burning of sugarcane, the amount of water available for human consumption, and transportation logistics for CKD patients receiving hemodialysis treatment in Managua hospitals. From 2017 to 2022, 100 worker grievances were fully addressed by the company's grievance mechanism. Four (4) new grievances were received in early 2023 and are currently being addressed. The creation of this additional channel for grievances, and the constructive dialogue between the Committee members, has helped address the concerns of CM workers, former workers, and neighboring communities. At the same time, it has become an instrument for continuous improvement of the company's operations.

### ***Participatory water monitoring***

The parties agreed to put in place a participatory water monitoring program to address AMBED's concern regarding water quality in communities neighboring the Montelimar Mill. The initiative aimed to add a participatory component to CM's existing water monitoring processes. CAO provided training for the parties to help them tailor the program to their situation and needs. The aim of the participatory monitoring was to generate credible and reliable information on water quality for all interested parties, paying special attention to communities' environmental concerns. The parties set up a specific committee composed of 2 representatives from each party. Since



2018, 5 participatory monitoring rounds have been completed without interruption during the political crisis and the pandemic. Every year, AMBED proposes the sites where samples are to be taken and CM leads the process. Residents from each community are invited to witness the extraction of samples and AMBED is invited to accompany the transfer of samples to an independent laboratory at the Center for Research on Water Resources of the National Autonomous University of Nicaragua (CIRA-UNAN). Results are presented to AMBED's Board and to the communities where samples were taken. Since 2018, 33 sites have been sampled in communities of San Rafael del Sur and Villa El Carmen, benefitting a total population of over 3,000 people. So far, results have consistently shown that parameters involving physical, chemical, agrochemical factors, or heavy metals do not represent a threat to human health. Microbiological parameters in local wells were found outside the norm due to poor community or family management. CM offered recommendations to community members on how to restore the quality of drinking water at those sites.



*Company and community representatives working on collecting water samples for analysis, June 2020*

### **CKD causes and CM's labor practices**

In their complaint, AMBED raised concerns about CM's labor practices and their possible impact on the progress of CKD in workers who had the disease. The parties invited scientists from Boston University to present scientific knowledge to date, and report on ongoing research on the disease. CM also gave a detailed presentation of its labor standards for the jobs of greatest interest to AMBED members, so they could also inform their members. In addition, CM asked the Boston University for preliminary recommendations on the company's labor practices.

During the process, CM reported on progress to improve work practices to prevent chronic dehydration and heat stress, which are associated with CKD. According to CM, cane cutters work from 6:00 am to 12:00 pm and take mandatory 15-minute breaks every hour plus additional voluntary breaks. Breaks are taken under the shade in tents located close to their working spots, thus ensuring that cane cutters do not walk more than 50 meters. A 30-minute lunch break in the shade is also mandatory. Workers must drink a glass of water every 15 minutes even if they are not thirsty, amounting to 1 liter per hour. Additionally, they are required to drink 250 milliliters per hour (ml/h) of an isotonic drink, a total of 1.5 liters per day.

A group of 49 trained health promoters verify that workers comply with mandatory breaks and hydration and monitor body temperature and other symptoms looking out for signs of heat stress and dehydration. They also monitor the weather and the humidity, which can increase heat stress risk, and can request workers to take more breaks and hydrate when needed. The health promoters are trained to spot early signs of heat stress and dehydration and to provide first aid, where necessary. They also deliver regular awareness raising talks for workers regarding heat and dehydration risks.

### **Land titling**

During CAO's assessment of the complaint, AMBED expressed concerns about families who lived within CM's sugar plantations and did not have a title to their land. They asked whether CM planned to resettle them by force or dialogue. CM informed CAO and AMBED that they had inherited this problem in 2002 from the previous owners and that their Board had requested that a land titling initiative be conducted to support families who had lived there for years and had acquired a right over the land. Under this initiative, 349 lots of land in Los Vivas, El Apante, and Los Jícaros were formally donated by the company to the families who lived on the land, and detailed plans were provided so that they could obtain their land title from the government. The land titling process is lengthy and outside CM's control because it requires the intervention of national government institutions. CM has committed to respect rightful possession of land while families obtain their titles.

For those families who could not get a title because they lived in risk areas, a resettlement process was conducted following IFC's Performance Standard 5. The resettlement was supported by the Urban and Rural Housing National Institute (INVUR), the Municipality of San Rafael, and the Habitat Foundation. A total of 31 families, including 119 people, were resettled to a risk-free area in conditions that are equal to or better than where they lived previously, and in new houses/plots

for which they will ultimately receive a title from the Nicaraguan government once they are able to complete the process.

***Additional support for AMBED members***

From the beginning of the CAO process, CM made it clear it would only engage in initiatives to support AMBED's members that were financially sustainable and would not consider requests that would create dependency on the company. While permanent food supply was ruled out as an option, CM did find ways to help AMBED's most vulnerable members. During the pandemic, in coordination with ANDECU (a Nicaragua NGO) and SOMO, which provided funding to the project, CM supported efforts to provide exceptional and temporary food aid to AMBED's members as a response to the dire economic situation caused by the COVID-19 pandemic. CM also agreed to a one-off food supply for AMBED's most vulnerable members towards the end of 2022, as the process to set up a new income generation project was taking longer than expected. In total, 671 food packages have been delivered. Additionally, CM connected AMBED with the National Food Bank in Nicaragua to provide bi-monthly food assistance for AMBED's most vulnerable members. CM covered the delivery costs and AMBED contributes an average of 8,000 Cordobas (about \$220) per donation.

In addition, during the pandemic, CM provided AMBED with hygiene kits, which included a total of 100 gallons of gel, 100 gallons of liquid soap, and 1,100 reusable face masks.

In agreement with AMBED, CM has also undertaken other activities to support AMBED members, such as helping to process the association's legal status; donating a computer; recruiting and hiring an assistant for AMBED's Board; building an office for them; finding donations of clothing; assisting with funeral costs for 11 families; and providing general economic support.



*Company and AMBED representatives preparing for the distribution of food supplies for the community, April 2017*

## **CAO Monitoring**

The final settlement agreement signed by the parties in October 2019, established that CAO would monitor implementation of the agreement for 18 months. However, the challenges posed by the pandemic and the complications with the microcredit initiative prompted CAO to postpone its exit 3 times.

During the CAO monitoring period, the parties held 16 joint meetings (some of them online, due to the COVID-19 pandemic), which have also resulted in new agreements. In addition, they have continued to work together to implement the commitments from the 2019 agreement.

After granting the last extension to the parties in June 2022, CAO put in place an intense schedule of visits to San Rafael del Sur to support the parties to complete implementation of the agreements. These efforts were to address AMBED's concerns that they lacked capacity to continue collaborating with CM to implement the provisions of the agreements after CAO's exit. CAO provided further capacity building to both parties on topics such as meeting preparation, constructive communication, facilitation, and effective monitoring of agreed-upon actions.

In December 2022, the parties indicated to CAO that they were satisfied with the implementation of the agreements to date. However, AMBED continued to voice concerns that, without CAO and without an advisor, they would be left vulnerable. In October 2022, AMBED approached IFC with a request for technical support. IFC met with AMBED in November 2022 to better understand its

needs and requests. Considering its relationship with its client, IFC indicated it would continue its close engagement with CM throughout project supervision and support CM's efforts with AMBED through that process.

In January 2023, CAO convened a final closure meeting in San Rafael del Sur with AMBED's Board, COSEMUNAV's President, and CM's representatives. AMBED expressed their gratitude to CM for its participation in the CAO process and its contribution to their community. CM thanked AMBED for their continued engagement and indicated they remained committed to their relationship and future collaboration. Since the parties informed CAO that the agreements had been implemented to their mutual satisfaction, CAO concluded the dispute resolution process and closed the case in January 2023.



*Complainants, company's representatives and the CAO team gathered for the closing ceremony, January 2023*

## **INSIGHTS AND LESSONS FROM THE PROCESS**

The case presented several challenges and opportunities for reflection and learning.

### **Challenges**

#### ***Participating in a process during a political crisis and a pandemic***

Over the course of this case, the parties had to navigate challenges caused by:

- a grave political crisis in 2018, which paralyzed the country for weeks and had serious negative repercussions on all Nicaragua citizens and on the economy;
- the COVID-19 pandemic, which prevented the parties and CAO from meeting in person for months.

When the social and political crisis in Nicaragua broke out in 2018, the World Bank Group suspended all missions to and within the country. While CAO was not able to travel to the area due to security restrictions, the parties continued to work together to reach and implement agreements. Most notably, CM was able to complete construction of the textile factory and commence operations amidst violent clashes in the streets. The way in which the parties were able to overcome that challenge is a testament to their resilience and to their commitment to the CAO process.

Two years later, when the COVID-19 pandemic paralyzed the world, the parties showed their resilience once again. CAO quickly decided to convert the process into an online process. However, AMBED initially lacked the means and capacity to participate in an online process. CAO helped by equipping AMBED's leaders with smartphones and internet service and trained them to use videoconferencing apps. CAO also helped parties prepare videos to disseminate good practices to prevent the spread of COVID-19 and later trained both parties in the production of short videos to keep their members and employees informed. The parties showed a determination to adapt, especially community representatives who had a steep learning curve when it came to using new technologies. The parties were quickly able to resume bi-monthly joint meetings and met on 10 occasions virtually before they could resume face-to-face meetings.

#### ***Diversion of funds and loss of trust***

The pilot microcredit initiative was intended to start with a small amount of money and be tested with a few beneficiaries without the support of a specialized agency. The initiative was launched but put on hold due to the COVID-19 pandemic. The special account opened for the initiative was supposed to require two signatures to withdraw funds. However, due to an oversight when the account was opened, withdrawals only required one signature, which left the microcredit project

vulnerable to misuse of funds. The diversion of the funds by AMBED's advisor and treasurer negatively impacted the process and trust built among the parties.

While the dialogue process proved to be resilient enough for the parties to work through this difficult situation, the opportunity was lost to properly pilot a microcredit initiative that could have grown to benefit hundreds of families.

## **Reflections**

### ***Opportunity of dialogue to shape the company's CSR strategy***

While CM was not pleased with the complaint filed by AMBED and felt it was an unfair representation of their social and environmental performance, they gradually found that the dialogue process provided an opportunity to further strengthen their engagement with a community organization. The dialogue process helped the company transition from a philanthropic approach to one focused on longer term partnerships to support sustainable projects.

### ***Dialogue process helped save lives***

AMBED has repeatedly stated they did not know how to start a dialogue with the company, and feel that the CAO process provided an adequate platform to initiate a relationship with them. Most importantly, they strongly believe that if it had not been for the dialogue process and actions implemented as part of the agreements, many of their members would not be alive today. The agreements reached through dialogue allowed them to get access to hemodialysis services, obtain a pension from INSS, and improve income for their families. They also acknowledged the individual commitment of CM's staff members who made significant efforts to help save the lives of those most at need.

## **Lessons Learned**

### ***Collaboration with IFC and World Bank Office in Nicaragua added value***

IFC's Country Representative played an important role at the beginning of the CAO process by helping to build connections between CAO and the IFC client. During the initial interactions at the assessment stage, CM was concerned that CAO would attempt to replicate the process that had been conducted in a previous case in Nicaragua that also concerned CKD, without due attention to the differences in context and situation. IFC shared CM's concerns with CAO and also explained to their client the potential value addition of engaging in a dispute resolution process to address the complaint.

CAO maintained contact with the IFC project team throughout the process. IFC's environmental and social specialists and the CAO team exchanged information on the case frequently and, toward the end of the dispute resolution process, took coordinated steps as CAO concluded its involvement in the case.

The World Bank office in Nicaragua also provided valuable support to the CAO process during difficult circumstances. They provided security support to allow CAO consultants to return to the

field in the aftermath of the political crisis in 2018. Toward the end of 2020, when COVID restrictions started to be lifted, the country office supported CAO's local consultant with necessary approvals to resume work in the field. Additionally, as CAO approached the end of its process, the World Bank office authorized an intense travel schedule for the CAO consultants so they could support the parties in the final phase of implementing the agreements.

A crucial lesson for this case is the importance of an ongoing and constructive engagement with the IFC project team and the World Bank country office, while duly respecting the independence and confidentiality of the CAO process.

***Ground rules are not a necessity for every case***

In CAO's experience, setting up ground rules for the dispute resolution process at the beginning is important to build trust and common understanding. Indeed, it can be helpful for the parties to agree to a set of principles that guide them throughout the process and that the mediator can hold them to. However, in this case, the parties did not need to agree on a comprehensive set of ground rules before starting the mediation process. At the outset, the parties agreed to meet to exchange information and it was only later that they agreed to start a dialogue. Rather than agree on detailed rules of engagement, rules were built during the process, as needed. This approach allowed the parties to focus on the substantive issues rather than spending a lot of time discussing a framework for dialogue at the beginning.

**CONCLUSION**

In accordance with the [CAO Policy](#), CAO concluded the dispute resolution process and closed the case in January 2023. All documentation related to this case is available on CAO's website at <https://officecao.org/NicaraguaMontelimar01>. More information about the CAO process is presented in Appendix A.



## **APPENDIX A. CAO COMPLAINT-HANDLING PROCESS**

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO dispute resolution specialists. The purpose of a CAO assessment is to: (1) clarify the issues and concerns raised by the complainants; (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.

As per the IFC/MIGA Independent Accountability Mechanism (CAO) Policy,<sup>4</sup> the following steps are typically followed in response to a complaint that is received:

- Step 1:       **Acknowledgment** of receipt of the complaint.
- Step 2:       **Eligibility:** Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 business days).
- Step 3:       **Assessment:** Assessing the issues and providing 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 90 business days, with possibility of extension for a maximum of 30 additional business days if after the 90-business day period: (1) the Parties confirm that resolution of the complaint is likely; or (2) either Party expresses interest in dispute resolution, and there is potential that the other Party will agree.
- Step 4:       **Facilitating agreement:** If the Parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the Parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to an agreement or other mutually agreed and appropriate goals. 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 affected.<sup>5</sup>

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<sup>4</sup> For more details on the role and work of CAO, please refer to the full IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://documents1.worldbank.org/curated/en/889191625065397617/pdf/IFC-MIGA-Independent-Accountability-Mechanism-CAO-Policy.pdf>

<sup>5</sup> 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 concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

OR

**Compliance Appraisal/Investigation:** If the Parties opt for an investigative process, the complaint is transferred to CAO's Compliance function. The complaint is also transferred to the Compliance function when a dispute resolution process results in partial or no agreement. At least one complainant must provide explicit consent for the transfer unless CAO is aware of Threats and Reprisals concerns. CAO's Compliance function reviews IFC/MIGA's compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate following a three-step process. First, a compliance appraisal determines whether further investigation is warranted. The appraisal can take up to 45 business days, with the possibility of extending 20 business days in exceptional circumstances. Second, if an investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC/MIGA's performance. An investigation report will be made public, along with IFC/MIGA's response and an action plan to remediate findings of non-compliance and related harm. Third, in cases where non-compliance and related harm are found, CAO will monitor the effective implementation of the action plan.

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

Step 6: **Conclusion/Case Closure**