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NICARAGUA
FREE TRADE ZONE TRIPARTITE COMMISSION: SOCIAL DIALOGUE IN TIMES OF CRISIS

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In times of crisis, social dialogue is a highly valuable tool with which to reach agreement in socio-economic and labour-related decisions. Establishment of the Free Trade Zone Tripartite Commission of Nicaragua and achievement of the "Tripartite Economic and Labour Emergency Agreement in Free Trade Zones" aiming to contribute to preserving employment and labour stability, was not only useful in that sector but was also replicated in other areas affected by the crisis. Efforts to preserve minimum-wage purchasing power in the current crisis context, and to establish the increase for 2010, were designed to provide a foreseeable framework for such a major issue. The agreement on minimum-wage adjustment was combined with other actions such as promotion of a working environment based on mutual respect and respect for labour rights, free agreement on working conditions ensuring working-day continuity or discontinuity, among others.

1. Introduction

Since the 1990s and until late 2006, the history of labour relations under the Free Trade Zone Regime of Nicaragua has been complicated, and dialogue between workers and employers failed to achieve significant outcomes. General perception of the regime in terms of employment was the reverse of favourable. Cultural differences between foreign investors and workers, in addition to negative publicity in the media, raised serious obstacles to promotion and development of the Free Trade Zone Regime. Furthermore, the pursuit of tripartite dialogue promoted in 2006 by the Sandinista Workers' Union (*Central Sandinista de Trabajadores - CST)*, aiming to reach an Agreement on Work Concerns in Free Trade Zones, did not attain the desired consensus.

After five years of sustained economic growth, the slowdown of the world economy as a result of the crisis led to successive revisions of economic growth forecasts for 2009. GDP growth in 2008 was the lowest in the period (3.8%) and the trend worsened in 2009 (1% according to the latest revision). Main transmission channels were the drop in maquila area exports, contraction of remittances and of inflow of direct foreign investment, together with lower numbers of tourist arrivals in the country.

Before the crisis, Nicaragua already faced major challenges to provide gainful employment to close to 114.0 thousand unemployed persons across the nation, and to improve employment or job quality for over 708.3 thousand underemployed men and women (INIDE, 2007). ILO San José (2009) figures estimate that, with the crisis, approximately 34 thousand individuals will lose their jobs or fail to find employment in 2009.[2] It appears that such "destruction of employment" will concentrate mostly among wage-earning jobs.

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2 This forecast is the worst scenario. On the supply side, the rate of growth of the economically active population (EAP) is assumed to respond only to population growth. However, it is known that in times of crisis many individuals move away from the labour market, in an effect known as the "discouraged-worker effect".

In early 2007, the Taiwanese Nien Hsing Group decided to relocate in Vietnam, alleging that the cost of labour was lower there. The decision was implemented between August and December 2008, resulting in the loss of 13 thousand jobs under the Free Trade Zone Regime. On the other hand, the number of user firms and the level of exports as of December 2008 showed no major variations (see Table 1).

Table 1
Main Free Trade Zone Indicators

Concepts	December 2007	Accumulated August 2008	December 2008	Accumulated March 2009	Accumulated August 2009
Number of user firms	120	123	129	132	132
Direct jobs	85,750	85,221	73,224	70,447	70,977
Exports (millon US$)	1,243	704.42	1,247.65	242.87	630.06

Source: National Free Trade Zone Commission (*Comisión Nacional de Zonas Francas - CNZF)*

2. Initiative for conformation of the Free Trade Zone Tripartite Commission

In 2007 and 2008, the Free Trade Zone National Tripartite Commission (*Comisión Nacional de Zonas Francas - CNZF*), as Government agency in charge of the Regime, played a dynamic and proactive role in seeking a way to close the gap between unions and employers, ensure labour stability, and foster a favourable atmosphere for investment. Whereas the departure of the Nien Hsing Group was a warning to the sector, the world economic and financial crisis which broke out in late 2008 triggered a tripartite agreement in the Free Trade Zone. The potential closure of firms as a result of the reduction in import contracts from the United States market, painted a gloomy outlook for job stability under the regime.

The "Economic and Labour Emergency Agreement" (*Acuerdo de Emergencia Económica y Laboral)* was signed on March 12, 2009 by the Government, business sector, and unions. Private companies were represented by the Federation of Nicaraguan Chambers of Private Free Trade Zones (*Federación de Cámaras Nicaragüenses de Zonas Francas Privadas - FCNZFP)*, and the Nicaraguan Textile and Clothing Industry Association (A*sociación Nicaragüense de la Industrial Textil y de Confección - ANITEC*); while the unions were represented by the Sandinista Workers' Union (*Central Sandinista de Trabajadores - CST*), the Confederation of Union Workers (*Confederación Sindical de Trabajadores - CST - José Benito Escobar*), the Confederation of Unions (*Confederación de Unificación Sindical - CUS-CPT*), and the Workers Union Confederation (*Confederación Unitaria de Trabajadores - CUT-CPT*).

The main objective of the agreement was to preserve employment and job stability at each and every one of the business enterprises under the Free Trade Zone Regime, and attract responsible investment to guarantee the creation of more and better jobs.

The agreement deals with five important items: first, creation of an atmosphere attractive to investment, commits the parties to promoting a working environment of mutual respect and respecting labour rights and working conditions.

The second item promotes free bargaining of working conditions, to ensure continuity or discontinuity of the working day, under the law, provided there is agreement among the parties, as in the case of other issues of interest between workers and employers, with a view to preserving investment and employment.

The third Item refers to creation of the "Free Trade Zone Tripartite Labour Commission" (*Comisión Tripartita Laboral de Zonas Francas*) as a forum for social discussion and dialogue, a mechanism to help resolve general labour problems and specific issues affecting workers sector and business enterprises. The Commission is composed of representatives of the unions, the private sector, and Government, in tripartite form.

The fourth item deals with minimum-wage increases in the Free Trade Zone sector for the 2009-2011 period. An 8% adjustment is set for 2009, and 12% for 2010; in 2011 the adjustment will be subject to appreciation of how the crisis evolves.

It should be noted that, as of March 2008, accumulated inflation in the 12 previous months was 8.46%. Hence, to some extent, the intent of the negotiating parties in this agreement was to preserve the purchasing power of the minimum wage in the sector.

The fifth and last item refers to the agreement between the Government and the private sector to set up company stores to provide low-priced basic commodities to lower-income workers.

The Tripartite Commission is established under the Free Trade Zone Regime since March 12, 2009, and has held meetings to resolve labour issues, set up a Company Store at the Las Mercedes Industrial Park for the benefit of low-income workers, and devise a proposal on protection of labour liabilities at Free Trade Zone business enterprises.

3. Results/Evaluation

Although from August 2008 to August 2009 export levels fell by 10.5%, certain positive results can be highlighted in Free Trade Zones. The number of user firms under the regime increased by 7.3%, and the level of employment after the agreement, from March to August 2009, increased by 530 additional jobs, which demonstrates efforts to maintain and increase employment in Free Trade Zones (see Table 1). In addition, to date in 2009, several investments of Mexican and German origin have materialized, pointing to further recovery of the jobs lost and a more encouraging outlook in terms of attracting investment and increasing employment.

In addition, setting up a one-stop window for Free Trade Zone services has favoured the management of firms in the regime, while relations between these firms and government agencies, together with perception of the regime by the society, have substantially improved.

The Free Trade Zone agreement has extended to other fields. For example, efforts by the Ministry of Labour to obtain understanding between unions and employers in the building construction sector, helped to reach an agreement in March 2009 –the same month when the tripartite agreement was completed. It is worth pointing out that the building construction sector represents between 8% and 10% of economic activities.

The agreement reached by the National Minimum-Wage Commission in May 2009 is the first to be adopted unanimously by all parties. The same Commission ratified the Free Trade Zone Tripartite Agreement under which a differentiated minimum-wage increase was adopted (see Table 2). While the increase was 13% in the sector of agriculture and livestock sector, the Free Trade Zones adopted 8%, as agreed among the parties in March, and for the remaining sectors the increase adopted was 11%. Inflation continued its downward trend throughout the year.

As in several other countries of the region, since late 2007, inflation in Nicaragua increased substantially as a result of food and fuel prices. In mid-2008, inflation for the 12 previous months stood at about 23%, whereas one year earlier it had been under 10%. This rise in prices led to two significant minimum-wage raises, i.e. 15% in February 2008 and 18% in October 2008 (in both cases for all sectors of activity). Towards the end of the year, however, inflation began to slow down as a result of a fall from the peak prices of commodities. As of December 2008, accumulated inflation for the year had been 13.7%, whereas between January and September 2009 the inflation rate remained unchanged.

It should be pointed out that owing to the crisis the Free Trade Zone business sector has endured greater restrictions in setting the prices of their export products, which are fixed by the importing brands or companies in foreign markets; this fact was taken into consideration in the process of minimum-wage negotiations in such zone.

The bipartite agreement between the Sandinista Workers Union (CST) and the Pellas Business Group, executed on June 5, 2009 is yet another instance of how the Free Trade Zone Tripartite Agreement has had effects on other sectors in promoting social dialogue and improving the atmosphere for investment. In an opinion poll of 804 individuals, 64.4% of interviewees favourably assessed the agreement.[3]

The private sector has contributed to obtain that the Tripartite Commission discuss issues related to corporate social responsibility and be an active forum for consultation by workers and on the concerns of unions and corporations. In turn, the union sector has proposed that the Commission become a forum to receive and promote labour laws and other laws regarding the Free Trade Zone Regime before the National Assembly.

3 *Diario La Prensa,* August 31 2009. M. y R. Consultores Survey.

Table 2
Evolution of minimum-wage increase by sector

Activity	March 2006	June 2007	Change% 2006-2007	Feb. 2008	Change % 2007-2008	Oct. 2008	Change % Feb-Oct 2008	May 2009	Change % 2008-2009
Agriculture & livestock	869.40	1,025.89	18	1,179.80	15	1,392.15	18	1,573.13	13
Fisheries	1,371.40	1,618.25	18	1,861.00	15	2,195.98	18	2,437.54	11
Mining	1,619.80	1,911.36	18	2,198.10	15	2,593.75	18	2,879.06	11
Industry	1,212.70	1,430.99	18	1,645.70	15	1,941.92	18	2,155.53	11
Free Trade Zone Industries	1,478.40	1,744.51	18	2,006.20	15	2,367.31	18	2,556.70	8
Gas, water and electricity	1,654.30	1,952.07	18	2,244.90	15	2,648.98	18	2,940.37	11
Construction	2,018.40	2,381.71	18	2,739.00	15	3,232.02	18	3,587.54	11
Retail	1,654.30	1,952.07	18	2,244.90	15	2,648.98	18	2,940.37	11
Transport and communications	1,654.30	1,952.07	18	2,244.90	15	2,648.98	18	2,940.37	11
Financial Institutions	2,018.40	2,381.71	18	2,739.00	15	3,232.02	18	3,587.54	11
Personal and social services	1,264.40	1,491.99	18	1,715.80	15	2,024.64	18	2,247.35	11
Local and Central Government	1,124.76	1,327.22	18	1,526.30	15	1,801.03	18	1,999.14	11
Price Index	283.9	319.1	12.4	362.7	13.7	398.7	9.9	394.8	0.0
Exchange rate: C$ equivalent in US$	17.32	18.40		19.02		19.65		20.17	

Source: Ministry of Labour (*Ministerio del Trabajo - MITRAB*) and Free Trade Zone National Commission (*Comisión Nacional de Zonas Francas - CNZF*)

Finally, it is important to point out that the establishment and the operation of the Tripartite Commission are under heavy pressure from the various sectors; as a result, the determination and continuity of the Commission in pursuit of consensus is a commendable effort of all its members.

4. Conclusions

The relocation of the Taiwanese Nien Hsing Group outside Nicaragua, together with the international financial crisis, were critical situations that led the parties concerned to seek forms of agreement to preserve employment and improve the competitive position of the Nicaraguan Free Trade Zone in order to attract new investment. Closing the gap between the parties materialized as an agreement last March, combining moderation of the specific minimum-wage adjustment with a commitment to preserve employment. The same spirit of agreement further allowed the establishment of a tripartite commission to resolve labour disputes in the Free Trade Zone.

Such pursuit of consensus by the social players was also successful in bargaining in the construction sector, including the agreement attained last May at the National Minimum-Wage Commission. The foregoing reflects the intention to face the difficult situation posed by the crisis on the basis of agreements restricting the loss of jobs and improving the position of Nicaraguan firms for a speedier recovery from the crisis.

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