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LADB Staff

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CAFTA Ratified in Nicaragua

by LADB Staff

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On Oct. 10, Nicaragua's Asamblea Nacional (AN) ratified the Central America Free Trade Agreement (CAFTA). A majority composed of the Partido Liberal Constitucionalista (PLC) and its legislative partner marshaled a 49-vote majority to defeat the Frente Sandinista para la Liberacion Nacional (FSLN) in the 91-member legislature. The vote lacked the clamor of opposing throngs seen in the other countries, El Salvador, Guatemala, Honduras, and the Dominican Republic, which have already ratified the trade pact with the US, but it did feature a protracted debate.

The FSLN cast 37 of its 38 votes against, but it cannot be said that this represented a defeat for the party. It was FSLN leader Daniel Ortega's call as to whether the measure would come to the floor at all, and he permitted it. The muted public outcry is likely more a result of unrelated constitutional issues that threaten to unseat the president than to a lack of opposition. Nicaraguans have a lot more to worry about than the future effects of a trade agreement.

Ortega announced publicly on Oct. 8 that he would not continue to block a CAFTA vote. His change of stance came after a meeting with US Deputy Secretary of State Robert Zoellick. Zoellick was US trade representative (USTR) during the yearlong treaty negotiations. Ortega was able to hold up ratification because as party leader, AN president Rene Nunez takes his cues from him.

The Sandinista position had been to put off consideration of CAFTA until a series of laws aimed at compensating those who would be hurt by its passage could be passed. Ortega denied having made a deal with Zoellick that resulted in the change of strategy. Such a deal might have concerned compensation but might also have had more to do with strenuous US opposition to Ortega's candidacy for president in 2006. The candidate insisted that Zoellick had nothing to do with his change of heart, "because he came for other things."

One of the "other things" for which the deputy secretary of state invested two days in Nicaragua was to lean on the PLC and the FSLN to break the coalition by which both parties have sought to undermine, if not impeach, President Enrique Bolanos (see NotiCen, 2005-01-13). Zoellick came armed with the threat of withholding aid to Nicaragua. The CAFTA vote was an opportunity for the PLC to show that the deal with the FSLN was broken. Withholding funds was not the only arrow in Zoellick's quiver, but it was one that put Nicaragua in a difficult and paradoxical position.

Now having passed CAFTA, the country needs the US\$175 million Zoellick was talking about to prepare the economy and the society for its consequences. Zoellick also has the power to influence whether former President Arnoldo Aleman (1997-2001) will be indicted in the US on any of a number of charges related to his alleged looting of Nicaragua's treasury. Aleman is currently serving a 20-year sentence in Nicaragua but continues to lead the dominant faction of the PLC, the faction that has teamed up with the FSLN to drain the power of the presidency. Aleman is not in jail. He is confined to Managua.

Bolanos presidency reprieved

Whether a deal on Aleman and the US financial aid was struck remains unreported, but Bolanos' skin seems to have been saved. The parties coalesced against him agreed to freeze implementation of a series of constitutional reforms passed in the AN, which would have left him virtually powerless. The reforms effectively change the form of government to one more like a parliamentary system than one with a strong executive. The FSLN and PLC agreed to hold off on implementation until 2007, after the 2006 presidential elections. Ortega's decision to allow ratification of CAFTA cannot be taken as a defeat for the FSLN's opposition to the pact or an indication that it ceases to be a front-burner issue. Ortega is urging passage in the AN of a series of parallel laws that would mitigate the effects of the trade agreement. He also needs, ahead of the constitutional reforms, a ley marco (framework law) to implement the changes.

As groundwork for the ley marco, he has proposed a dual dialogue, one to take place in the AN, the other a national dialogue that would engage civil society, political forces, and the business sector. That could be organized under the auspices of the Instituto Centroamericano de Administracion de Empresa (INCAE). In calling for these democratic exercises, and in coming to an agreement with Bolanos, Ortega has shifted the terms of debate away from a question of the legitimacy of the reforms to questions of implementation and participation.

The veteran politico has been through all this before, successfully. "The constitutional reforms, which are a reality, a legitimate fact, generated a crisis of governability between the Asamblea Nacional and the executive," said Ortega. "To save this situation, we have committed ourselves to develop and propose a framework agreement, that is to say, the history of 1995 is repeating itself." 1995 reprised Ortega was harkening back to the constitutional reforms of 1995 during the administration of Violeta Barrios de Chamorro (1990-1996).

In that case, the executive and legislative branches got together on a ley marco of 32 articles that came into effect three days before Chamorro left office. In the present case, the Bolanos-Ortega agreement would have the reforms take effect after Bolanos leaves office. Antonio Lacayo, Chamorro's minister of the presidency and son-in-law, commented on the similarities. "I think they are similar," said Lacayo. "Both have as their objective taking away the power of the president of the republic and giving it to the AN, meaning both reforms alter the Constitution approved in 1987, which was presidentialist, as are all the constitutions in Latin America, with small exceptions." Lacayo was no fan of the reforms, then or now.

The most important of the 1995 reforms was to remove from the presidency the exclusive power to appoint judges. Lacayo's opinion is that since 1995 the judicial branch has become an appendage of the legislative branch. In the current situation, the presidency would be deprived of the power to control public services water, energy, and telecommunications through the creation of a Superintendencia de Servicios Publicos (SISEP). SISEP would come into being on Jan. 10, 2007, but it would be Bolanos who nominates its members. The president would also lose the power to appoint and fire his own ministers and ambassadors (see NotiCen, 2005-01-13). In the negotiations with Bolanos, Ortega was mindful of other historical facts of the 1990 election that he lost and Chamorro

won. The US intervened heavily in that election, and the perennial FSLN candidate wanted no repetition.

The parties in the negotiations reached an agreement on supervision by the Organization of American States (OAS) that might reduce US influence this time around. Ortega blasted the Zoellick visit as interference in the electoral process and accused the Bush administration of trying to divide the party. "It is truly serious when spokespersons and representatives of the US come to say that they are in favor of restraining the Frente Sandinista and its candidate," said Ortega. Zoellick reportedly indicated that his government would do "everything possible" to avoid a FSLN return to power. A clear indication of Zoellick's intent to divide was his meeting with Herty Lewites. Lewites is a former FSLN mayor of Managua who is running for president under his own banner (see NotiCen, 2005-03-10).

After the meeting, Zoellick told reporters, "The political ground seems to be shifting and some politicians in the established order can recognize that, so they are weighing their choices between their position in the established order and the will of the people." Lewites, while clearly seeking to keep from becoming a target of US wrath himself for his FSLN history, was also careful to stay distant from a perceived alliance that could backfire for the front-running candidate. He told reporters after the meeting, "We told him clearly we were Sandinistas, are Sandinistas, and we will die Sandinistas. We are from the center-left, and we want deep reforms."

Hoping to forestall US interference, Ortega has requested that both the Carter Center and the European Union (EU) send observation teams as soon as possible. "The US wants a great inhibition of a great political and social force that in the municipal elections won almost 43% of the votes, which is to say that nearly half of Nicaragua voted for the FSLN," he said. In the 2004 municipal elections, the Sandinistas won 87 of the country's 152 mayoralities.

The FSLN secretary-general also denied that the Zoellick visit in any way influenced the deal between the AN and Bolanos. "I don't know who thinks the Yankee so immense that he is able to make anyone tremble," said Ortega. "I believe the Yankee can't make anyone tremble anywhere in the world, much less in Nicaragua. This gentleman came and made four crazy statements and then left for Brazil, returned to the US, and forgot about Nicaragua." Ortega was not alone in his outrage against the US intrusion.

A PLC statement following the visit read, "As Nicaraguans, as Central Americans, and as children of Latin America we protest to the world about the US government's unwarranted interference in the internal affairs of our country."

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