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Nicaragua's deal to reduce its crippling foreign-oil expenditures by taking advantage of Venezuelan imports on favorable terms hit a snag a lack of facilities to store the oil. The government resorted to a short-term solution; it seized tanks belonging to ESSO Standard Oil (ESSO) and leased them to the state-run oil company PETRONIC. The resulting hue and cry was as deafening as it was predictable.

The seizure of the property was not completely without legal justification. It began with Nicaragua's Vice President Jaime Morales Carazo ordering the US-owned company to pay US$3 million in taxes on undeclared oil imports and the subsequent embargoing of company assets.

Texas based ExxonMobil, ESSO's parent company, did not respond from corporate headquarters, but local ESSO spokesman Alfredo Fernandez denied the company owed the taxes, claiming, "By national law, the import of oil in Nicaragua is exempt from taxes." He also said the action was illegal because national law prohibits a judge from turning over a company's assets to a third party. State authorities seized the company's fuel-storage terminal in the port of Corinto.

Judge Socorro Toruno of Chinandega named Roberto Zepeda, a customs administrator in Corinto, as receiver of the property, whereupon Zepeda signed a six-month lease with PETRONIC. US Ambassador to Nicaragua Paul Trivelli insisted on the immediate return of the facility, calling it a ploy to promote Venezuelan petroleum products and a threat to foreign investment.

The motive for the seizure was "to persuade ESSO to accept Venezuelan petroleum products. There is no doubt about that," he said. "The actions taken by the Nicaraguan authorities have the potential to seriously damage economic relations between the United States and Nicaragua. Perhaps ESSO, given its maturity and stability as a large company, can withstand such treatment, but what would a small investor think?"

Energy Minister Emilio Rappaccioli denied claims of illegality, saying that the federal customs agency authorized PETRONIC to use six of seven empty ESSO tanks to store 120,000 bbl of Venezuelan oil. PETRONIC had been absorbing the cost of having the Venezuelan tanker ride at anchor. Rappaccioli had previously admitted the lack of national-storage capacity, a glitch in the arrangement with Peroleos de Venezuela (PDVSA, see NotiCen, 2007-05-10). But the minister was adamant that the General Law of Hydrocarbons provides that one company can access another's tanks if they are idle and there are capacity problems. ESSO has leased tanks in the past under this provision, but never to PETRONIC.

Legal or not, the business community piled on. The Consejo Superior de la Empresa Privada (COSEP) demanded the return of the property to ESSO "with full ownership and control."

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Government walks a fine line The Ortega government has, since taking power in January, been deft in handling US and bourgeois objections to policies based on an understanding of property relations in which the social good is the predominant value (see NotiCen, 2007-01-11). The present situation continues that deft touch as the government, while solving its immediate problem, simultaneously has kept the capitalists at bay.

During every step of the process and the dispute, the government maintained constant communication with the company. Once the ESSO vats were full of government oil, Vice President Morales, who, prior to the seizure, said flatly, "Nothing is above national interest," told the media, "I believe the property should be returned as soon as possible, because we respect private property." He freely acknowledged that the government's commitment to solving its energy problems "led to measures that were less than ideal." In a manner of speaking, he threw himself on the mercy of ESSO, admitting, "Although these actions have no justification, they do have an explanation."

And return the property they did. Judge Toruno named ESSO manager in Corinto Gabriel Cedeno Meza receiver of the returned property. There was just one problem from the company's point of view. According to the memorandum of understanding conveying the property, ESSO was obligated to respect the six-month lease with PETRONIC. ESSO refused the deal. The company's legal representative Mauricio Espinoza refused to sign the document.

The company might at some point be willing to lease the tanks, he said, but only if the property were first returned without conditions. PETRONIC president Francisco Lopez Centeno said he was surprised at ESSO's decision. He had thought they had a deal. But, in the end, it might not matter. The government is expecting the arrival of a tanker on Sept. 14 carrying 100,000 bbl of diesel and 20,000 of gasoline, and Lopez said Shell had sufficient capacity for lease.

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