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Wake Up Call? U.S. Uses Waivers to Warn Nicaraguan President Daniel Ortega

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The administration of US President Barack Obama sent Nicaragua a volley of economic warning shots in recent months, withholding several million dollars of aid money and threatening even bigger "sanctions" should the government of President Daniel Ortega fail to improve its tarnished democratic credentials.

The US State Department delivered the first of its admonitions in mid-June, announcing plans to withhold the "fiscal transparency waiver" it normally uses to justify aid spending to Nicaragua. The decision affects roughly US$3 million in State Department and US Agency for International Development (USAID) funds.

A relatively modest amount of money, the aid cut sends the message, nevertheless, that the Obama administration is paying attention to—and disapproves of—the Ortega government’s spending habits. "I believe this is the first time [the US] has denied Nicaragua a waiver," Róger Arteaga, ex-president of the Cámara de Comercio Americana de Nicaragua (AMCHAM), told the online news site Confidencial. "It’s true that the direct consequences of them denying us this waiver are minor, because the amount of aid involved is small. But it’s a problem because of the bad signal it sends at the international level."

Of particular concern to US officials are the estimated US$500 million being funneled annually into Nicaragua from oil-rich Venezuela, whose leftist President Hugo Chavez is a staunch ally of Ortega (NotiCen, March 8, 2012). Much of that money is off the books, say critics, who accuse Ortega of using discretionary funds to "buy" votes, feed the campaign coffers of his Frente Sandinista de Liberación Nacional (FSLN), and even enrich himself and his family members (NotiCen, Nov. 17, 2011).

"While it is true that the Nicaraguan government does open its budget to the public, it does not reflect completely and with certainty the funds originating in Venezuela," US State Department spokesperson William Ostick told the Associated Press on June 22. "Also, public funds should not be used for partisan ends and should always be subject to the scrutiny of comptrollers."

US government officials are also critical of Ortega’s efforts in recent years to accumulate power, often by sidestepping Nicaragua’s fragile system of checks and balances. Fresh off a landslide victory in last November’s election, Ortega, a one-time Marxist revolutionary who led the FSLN’s post-revolutionary junta in the early 1980s, is now serving his third period as president—in open defiance of the country’s constitutionally-inscribed term-limit laws (NotiCen, Feb. 16, 2012). His Sandinista party also enjoys a two-thirds majority in Nicaragua’s unicameral legislature, the Asamblea Nacional (AN), meaning President Ortega can now more or less pass laws at will (NotiCen, June 28, 2012).

"Although Ortega has made life marginally better for the poorest Nicaraguans and has maintained prudent macroeconomic policies that benefit the middle and upper classes, he has done so at
enormous cost to the country’s social fabric and political integrity," Robert Callahan, who served as US ambassador to Nicaragua from 2008 to 2011, wrote in a recent report. Callahan, a conservative, co-authored the essay with policy analyst Ray Walser of the Heritage Foundation, a far-right Washington think tank.

"The Supreme Court and the Supreme Electoral Council, two coequal branches of government, are hand puppets for the Sandinista Party, which also holds a supermajority in the legislature," the report went on to say. "And despite enjoying every electoral advantage, including money, Ortega persists in stealing elections and manipulating their results."

**Calls for a 'bigger stick'**

In their report, published July 12, Callahan and Walser urged the Obama administration to step up economic pressure on the Ortega regime by denying Nicaragua a second, far weightier waiver: the "property waiver."

The US government is obliged under its own laws to veto World Bank, International Monetary Fund (IMF), and Inter-American Development Bank (IDB) loan applications by countries—like Nicaragua—that have confiscated property belonging to US citizens. The US makes exceptions, however, if the country in question secures what is known as a property waiver. To obtain a property waiver, individual governments must show that efforts are being made to compensate US victims of property expropriations.

Nicaragua, where numerous US citizens lost property to government expropriation during Ortega’s first presidency (1985-1990), has managed to secure property waivers—and thus enjoy open access to IMF, World Bank, and IDB loans—for years. Callahan says it is high time US authorities start denying Nicaragua that privilege. "If the Obama administration is serious about promoting democracy in Nicaragua," Callahan and Walser wrote, it should deny the property waiver and thus "employ its largest 'stick.'"

In terms of the money involved, the property waiver is indeed a large 'stick,' especially compared with the transparency waiver. Analysts say that, without it, Nicaragua could end up losing some US$1.5 billion during the next five years. Removing it would amount to a substantial economic sanction on Nicaragua.

**Sweating it out**

As the existing property waiver’s July 31 expiration date approached, suspense about the possible sanction rose to palpable levels in Nicaragua. Newspapers devoted countless articles to the subject. President Ortega even dedicated a portion of his July 19 speech—an annual event marking the FSLN’s 1979 overthrow of the US-backed Somoza family dictatorship (1936-1979)—to the waiver issue, insisting that the Nicaraguan people "will neither surrender nor be defeated."

"Let it be clear to those who think they can crush us with threats and sanctions. The [Nicaraguan] people are not going to stop fighting for their freedom, for their sovereignty," Ortega told supporters.

Behind the scenes, however, Nicaraguan government officials scrambled to protect the property waiver, meeting with US officials and compiling a report complete with detailed facts and figures.
regarding how many and how much US confiscation victims have been compensated through the years.

Business leaders, in the meantime, spoke out urging action by Ortega to avoid the sanction. "Ortega must be responsible for improving transparency and the functioning of Nicaragua’s institutions to protect the property waiver...which represents at least US$220 million annually in international cooperation," said José Adán Aguerri, president of the Consejo Superior de la Empresa Privada (COSEP).

A good starting point, according to Adán Aguerri, would be for Ortega and the AN to agree on replacements for some two dozen state officials whose terms expired more than two years ago yet remain in their posts thanks to a controversial 2010 presidential decree. Among those who benefited from Ortega’s "decretazo," as the media dubbed the decree, are members of both the Corte Suprema de Justicia (CSJ) and the Consejo Supremo Electoral (CSE), which were instrumental in allowing Ortega to sidestep Nicaragua’s term-limit laws and remain in power (NotiCen, May 26, 2011).

Tempest in a tea pot?
The administration brought the drama to a close on July 25, deciding somewhat anticlimactically to stick with the status quo: the property waiver would stand—at least for another year. In a press release issued by the US Embassy in Managua, the administration expressed concern about a new wave of property usurpations that suggest a "deteriorating rule of law" in Nicaragua. The situation "continues to be a significant obstacle for investment and the development of the country," the statement read.

The decision produced a sigh of relief for many in Nicaragua, with some calling it an opportunity to improve the country’s democratic institutionalism—lest US authorities be less generous with the property waiver next time around. In the end, the Obama administration opted against the sanction, despite claims by international observers and Nicaraguan opposition leaders that the FSLN tampered with last November’s election. It may feel different, observers warn, if Nicaragua’s upcoming municipal elections (set for November) are again plagued by voting-day shenanigans.

"Daniel Ortega would have won the [November, 2011] elections regardless, without all the trouble he caused. [The FSLN] may not have won 63 deputy seats [in the AN], but it would have won a majority. And we wouldn’t have to be dealing with these problems. Let’s take advantage of this opportunity to move the country forward," Ramiro Gurdián, a former COSEP head, told Confidencial.

Others, however, dismissed the US threat to pull the waiver as little more than political posturing, saying it had as much to do with conditions in Washington—which faces its own elections later this year—as it did with perceived problems in Managua. The Obama administration’s seemingly hard-line approach on the issue may have been more about appeasing conservatives like House Committee on Foreign Affairs chair Ileana Ros-Lehtinen (R-FL), a leading voice in the "Latino lobby," than with forcing Ortega to change his ways.

The decision "speaks more about the rule of law in the US than it does in Nicaragua," Partido Liberal Independiente (PLI) congressman Eliseo Núñez told the Nicaragua Dispatch. "The United States is not interested in having political relations with Nicaragua and the United States is not much interested in Latin America. In fact, they’ve shown an absolute disinterest in the region."