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## Nicaragua Pivots on Paris Accord, Scraps Environmental Assessment Rules

by Benjamin Witte-Lebhar

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Nearly four months after US President Donald Trump announced that he would break rank with more than 190 nations and pull out of the 2015 Paris climate accord, his Nicaraguan counterpart, Daniel Ortega, made the exact opposite decision. A critic of the deal from the outset, Ortega now says he wants in.

Nicaragua was one of just two countries (the other is Syria) absent from the agreement until Trump declared earlier this year that the US would join them ([NotiCen, July 13, 2017](#)). Unlike the US president—who is on record as calling climate change “a hoax”—Nicaragua’s leadership opted out because, in their opinion, the deal doesn’t do enough to protect the planet.

The Ortega administration doubled down on those arguments in early June, saying that it “demands a realistic, truly responsible [climate change] proposal” and describing its refusal to accept the Paris accord as “a clear position in defense of the planet and life.” But on Sept. 19, the long-serving Nicaraguan leader abruptly changed his tune, declaring that he’ll sign the deal after all. Why? For the sake of “solidarity” with the “nations of Africa, Asia, Latin America, and the Caribbean, which are in highly vulnerable zones,” he said.

Environmental groups in Nicaragua applauded the decision. And yet, not everyone is convinced by Ortega’s stated rationale, especially given the timing of the announcement, which came less than a month after *La Gaceta*, the official government journal, published details of a surprising decree (Decreto 15-2017) scrapping the country’s existing environmental assessment system for business or infrastructure projects. The previous rules had been in place since late 2006, just before Ortega and his Frente Sandinista de Liberación Nacional (FSLN) party returned to power after a 16-year absence.

Critics of the “decretazo” (sweeping decree) accuse the Ortega administration of conspiring with business leaders to lift environmental restrictions for the benefit, in particular, of new metals-mining investments. They see Ortega’s climate accord about-face, in that sense, as a way to save face following weeks of criticism from environmental organizations and other civil society groups. Backers of the president, in contrast, say that Decreto 15-2017 is a first step toward improving Nicaragua’s environmental assessment procedures.

### *‘More discretion’*

The decree, effective immediately upon its publication in *La Gaceta*, appeared Aug. 28 under the title “Updating of the Environmental Evaluation System for Permissions and Authorizations Involving the Sustainable Use of the Natural Resources.” It quickly proved to be as confusing as it was controversial.

Article 7 of the decree states clearly that Nicaragua’s existing environmental assessment system is officially annulled. Article 8, however, explains that projects currently seeking approval are to

be processed using the old format. The previous rules and procedures no longer apply, in other words, except when they do, and only, presumably, until a replacement system is established. Unfortunately, the decree gives no hint as to when that new system will be in place. Nor does it explain what the replacement procedures will look like, other than to say that it will be up to the Ministerio del Ambiente y los Recursos Naturales (Ministry of the Environment and Natural Resources, MARENA) to decide, and that in the future, certain priority projects will be exempt from environmental approval requirements.

“The correct interpretation is that they gave [MARENA] more discretion. The procedures had been regulated, and now they’ve given them leeway to handle it as they think best,” Víctor Campos, director of the Humboldt Center, a leading Nicaraguan environmental group, told the independent magazine and news site *Confidencial*.

Campos and other environmentalists are eager to hear what exactly the ministry plans to do. But so far, MARENA has been conspicuously silent on the matter. The only “quasi-official” response, as *Confidencial* reporter Maynor Salazar put it, came from José Adán Aguerri, the long-serving and recently re-appointed head of the Consejo Superior de la Empresa Privada (COSEP), a private-sector business association with close ties to the Ortega government.

Aguerri acknowledged that his group has been involved in the planning process and that the government will present its ideas for a new, streamlined evaluation process in due time. He urged critics not “to judge a book by its cover” and said the point of Decreto 15-2017 isn’t to do away with environmental standards and requirements but to make the evaluation system “more efficient and effective.”

Environmentalists are far from convinced. Rosario Sáenz, an environmental law expert and executive director of the Fundación Nicaragüense para el Desarrollo Sostenible (Nicaraguan Foundation for Sustainable Development, FUNDENIC), thinks that to really improve things, the government ought to have made changes to the existing system rather than task the cash-strapped and understaffed MARENA with developing a whole new one.

“How able is an institution to implement regulations? That’s where efficiency and effectiveness come into play,” she told *Confidencial*. “Here we have institutions like MARENA or even city governments that have been stripped of their authority. Political decisions take precedent over technical concerns. That’s where the real problem of effectiveness lies.”

### *Priority projects*

Sáenz worries, furthermore, that in certain cases, the government will end up waiving environmental requirements altogether. The decree says as much in Article 6, which addresses “activities, works, and national emergency projects” and states that MARENA will allow exceptions for projects meant to “mitigate disasters,” respond to “national emergencies,” or serve “national interests or national security.” The list is long and vague enough, Sáenz argues, that just about any project could qualify for exceptional treatment. “A mining project could be considered to be of national interest,” she said.

Sáenz is not alone in drawing a link between the rules changes and Nicaragua’s mining industry, which has grown rapidly in recent years thanks to an aggressive effort by the Ortega regime to court outside investors such as HEMCO, a subsidiary of Colombian gold producer Grupo Mineros; Canadian miner B2Gold Corp.; and the British firm Condor Gold ([NotiCen, March 28, 2013](#)).

Gold and silver production last year stood at 267,300 and 681,700 troy ounces respectively, up from 109,200 and 94,200 in 2006, according to the Cámara Minera de Nicaragua (CAMINIC), a private miners association. Earnings have risen sharply as well. In 2016, Nicaragua exported nearly US \$360 million worth of gold, now the third leading export product after beef (US\$430 million) and coffee (US\$400 million), the Centro de Trámites de las Exportaciones (Center of Export Formalities, CETREX) reported.

Only a portion of that money stays in Nicaragua in the form of taxes, royalties, and earnings from direct or indirect jobs ([NotiCen, March 13, 2014](#)). Looking forward, though, the Nicaraguan public sector is planning to benefit more directly from the industry through its recently created Empresa Nicaragüense de Minas (Nicaraguan Mining Company, ENIMINAS), a state mining company. ENIMINAS was approved by the FSLN-controlled legislature in June and is expected to work in partnership with private firms.

Critics say the annulment of Nicaragua's old environmental assessment system just two months after the creation of state mining company is hardly a coincidence. Nor were they surprised to learn—in the Aug. 24 edition of *La Gaceta*, four days before Decreto 15-2017 appeared—that the government chose Francisco López, the FSLN party treasurer, to head ENIMINAS. For Ortega's opponents, the developments are more of the same: the latest in a long history of power plays that the crafty caudillo has used to eliminate all checks and balances and tighten control over just about every level of power and influence in Nicaragua.

"Ortega has distinguished himself of late with his disdain for legal regulations and political compromises for environmental protection," the daily *La Prensa* wrote in an Aug. 31 editorial. "It's hardly surprising, then, that in Nicaragua, the environmental impact studies that are the norm everywhere else in the world would be eliminated by decree or omitted in a de facto way."

### *Voices of dissent*

The one silver lining in all of this, government critics argue, is the emergence of a broad, grass-roots coalition of civil society organizations that is openly defying the Ortega regime. On Sept. 4—exactly one week after *La Gaceta* published Decreto 15-2017—no fewer than 50 environmental, campesino (agrarian worker), human rights, and anti-mining organizations, among others, issued an open letter blasting the government's "arbitrary annulment" of the existing environmental impact assessment systems.

"At a time when the Nicaraguan environment faces an exaggerated process of degradation, the state irresponsibly declines to embrace a model of development that would ensure the wellbeing of its citizens," the organizations argued. "Instead, it foolishly suppresses the already limited environmental regulations that exist."

Some of the co-signers have a long history of challenging government abuses. The Centro Nicaragüense de Derechos Humanos (Nicaraguan Human Rights Center, CENIDH), for example, very much predates Ortega's return to power a decade ago. But others are more recent creations. The Consejo Nacional en Defensa de Nuestra Tierra, Lago y Soberanía (National Council in Defense of Our Land, Lake and Sovereignty) emerged spontaneously in recent years in opposition to plans by the government—in partnership with an untested Chinese development company—to dig a behemoth, US\$50-billion canal across the country ([NotiCen, March 16, 2017](#)).

Led by a campesina named Francisca Ramírez who fears losing her land to the canal project, the group has organized more than 90 demonstrations against the project, most recently on Aug. 16. Elsewhere in the country, in the northeastern corner of León department, residents have organized multiple protests in recent weeks against Condor Gold, which operates the nearby La India mine and holds numerous concessions in the area.

Open challenges of this kind play a particularly important role in Nicaragua right now, given that Ortega is essentially unopposed in the formal political area ([NotiCen, Jan. 19, 2017](#)). “Today is a successful day because we’ve managed to unite,” Ramírez said during a Sept. 4 press conference. “If they touch one of us, they touch all of us. We’re going to demand that the government annul the Canal law and this decree. This mistake is going to cost [the government] dearly.”

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