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Nicaragua: Update On Status Of Property Distributed By Former Government

by Deborah Tyroler

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Aug 15: President Violeta Barrios de Chamorro, Cardinal Miguel Obando y Bravo, former president Daniel Ortega and members of the international diplomatic corps witnessed the signing of the second phase of "concertacion" agreements. Representatives of labor unions, government officials, and employer organizations had been engaged in the talks since May 21. The principal objective of this second round of talks was to formulate recommendations for the National Assembly on property rights issues. The Assembly had scheduled the beginning of floor debate on property rights legislation implemented by the former government on Aug. 20. Representatives from the Superior Council of Private Enterprise (COSEP) refused to sign the accords, while the Permanent Workers Council (Consejo Permanente de Trabajadores- CPT) union federation refused to sign the sections focused on urban housing. COSEP, together with the United Nicaraguan Opposition (UNO) party coalition favored a more far-reaching return of property to previous owners than that called for in the concertacion accords. Sources from the UNO coalition say that property worth a total \$700 million changed hands during the Sandinista "pinata" (February 25-April 25, 1990), although government officials say the property was worth less than \$350 million. Recommendations to the National Assembly contained in the concertacion accords are summarized below. * Continuity of Laws 85, 86 and 88, promulgated by the Sandinista government to legalize property titles distributed between Feb. 25 and April 25, 1990. (See CAU 05/29/91 and 07/03/91 for previous coverage on Laws 85 and 86.) * Establishment of a formal review process for goods and titles to real estate distributed by the former government between Feb. 25 and April 25, 1990. The review would be carried out under the auspices of a special property office (Oficina de Ordenamiento Territorial-OOT) under jurisdiction of the Finance Ministry. * The following categories of title recipients would retain possession: to homes of 100 square meters or less under Laws 85 and 86; to urban lots under Law 86; and, to homes occupied by recipients prior to Feb. 25 last year, and who do not own another home. These title recipients would receive a free certificate of ownership (Solvencia de Ordenamiento Territorial-SOT) permitting them to retain, sell or rent the property. * Once the review process is complete, occupants of houses over 100 square meters who paid for the real estate ("in a legal transaction") will be charged a small fee for their SOT. However, should these property owners wish to sell, mortgage, or rent the house in question, they will first have to pay the government the equivalent of 100% of the property's current tax value. If property holders are unable to pay the former sum, the property will revert to the government. In these cases, if the OOT has ruled in favor of the original property owner, the government will return the property to said owner. If the OOT rules in favor of the original owner, but the dwelling is currently occupied by individuals who have complied with the above stipulations, the government is obligated to compensate the original owners. * All homes currently owned by the government, as well as those acquired under the new regulations, will be either returned to original owners or sold at public auction. Proceeds are to be used for infrastructure improvements in low-income neighborhoods. * All individuals and cooperatives who received land under agrarian reform legislation prior to Feb. 25, 1990 will retain ownership. * Agricultural landholdings which changed hands between Feb. 25 and April

1990, are subject to review, based upon the land-worker dependent (usually household members) ratio, and the title holder's occupation and access to other income sources. Property returned to government control after the review process will be placed in a "land bank" to be used in the current government's agrarian reform program. Aug. 17: National Assembly president Alfredo Cesar, head of the Assembly's property commission and leader of the legislative initiative to overturn Laws 85, 86 and 88, declared that although the Assembly is in favor of the concertation process, the accord essentially amounts to a "unilateral agreement between the government and the Sandinista National Liberation Front." Cesar justified his statement by emphasizing that COSEP and the CPT unions did not sign the concertacion accords. Aug. 18: In a public statement, Cesar warned President Barrios de Chamorro that if she attempted to convert the concertacion accords into law (via issuing decrees), UNO deputies would respond by voting for a more radical bill. Over the weekend, a special 2,000-member police detail was assigned to protect UNO representatives and rightist media outlets from possible attack by Sandinista sympathizers. Aug. 19: President Chamorro promulgated two decrees which effectively transformed into law major recommendations contained in the concertacion agreements. The decrees specify legal recognition of Laws 85, 86 and 88, eliminating any possibility that they could be retroactively repealed in the future. The decrees establish review procedures on a case-by- case basis of reported abuses committed under the three laws. If such abuse is declared to have occurred, property is to be returned to previous owners. Aug. 20: UNO deputies voted unanimously (52 votes) to approve Cesar's proposal "in principle." A definitive vote on the bill was expected within the next few days. The Assembly's 39 FSLN deputies returned to the parliament after a three month absence, only to stage another walk-out three hours after the vote. While the Assembly floor debate was in progress, about 3,000 people demonstrated in a Managua plaza to pressure UNO deputies to vote against the bill. The demonstration was organized by the pro-Sandinista Popular Struggle Front (Frente de Lucha Popular). Miguel D'Escoto, coordinator of the Communal Movement and the Front, advised President Barrios de Chamorro to veto the bill, and call for a plebiscite to determine if Nicaraguans are interested in scheduling new elections for members of the National Assembly. Aug. 22: In statements to reporters, Presidency Minister Antonio Lacayo asserted that Cesar's bill was unconstitutional. In addition, said Lacayo, the bill effectively oversteps the legislature's mandate by usurping powers corresponding to the executive and judicial branches. Aug. 23: UNO representatives unanimously voted to repeal Laws 85, 86 and 88. The 39 Sandinista deputies in the 92-seat unicameral legislature boycotted the vote. As approved, the bill nullifies the decrees signed by Chamorro on Aug. 19, and expropriates property from an estimated 6,000 Sandinista beneficiaries whose holdings are valued at over \$11,600 each. Persons who benefitted from the "pinata," but whose property is valued below \$11,600 will not be affected, and will receive legal titles. Beneficiaries who stand to lose their property via expropriation could purchase the property at current tax- assessed value, or vacate the property in exchange for an unspecified form of compensation or indemnification. The bill's chief sponsor, Alfredo Cesar, told reporters that if the Supreme Court declares the new law unconstitutional, UNO deputies would modify the legislation to make it acceptable. Aug. 26: After final editing changes, the definitive version of the property bill was submitted to President Chamorro. Under Nicaraguan law, the executive branch has 15 days in which to approve the bill, or issue a full or a partial veto. A partial veto, considered by observers as the most likely outcome, would send the bill back to the Assembly for further modifications. [Basic data from 08/15/91 and 08/23/91 reports by Central American Historical Institute (Washington, DC, and Managua); AFP, 08/15/91, 08/20/91, 08/23/91; ACAN-EFE, 08/16/91, 08/21/91, 08/23/91, 08/24/91, 08/26/91; AP, 08/24/91; Barricada, 08/19/91, 08/21/91, 08/22/91; La Prensa, 08/17/91, 08/18/91]

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