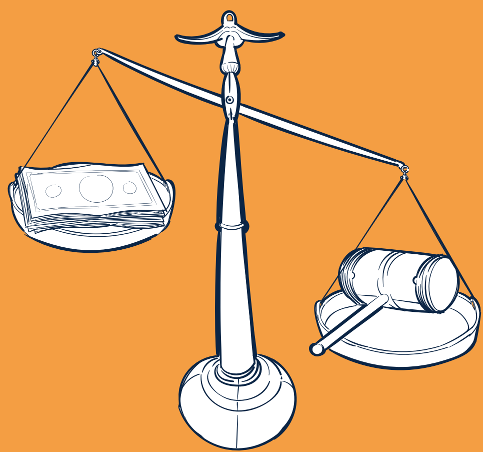

“NICA AND RENACER ACTS: ANALYSIS OF U.S. SANCTIONS IN RESPONSE TO HUMAN RIGHTS ABUSES IN NICARAGUA”

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Executive Summary

The political and human rights crises in Nicaragua deepened in the run-up to the 2021 presidential elections, with the detention of opposition candidates, their supporters, and grassroots human rights and social justice activists. While the release of some 222 political prisoners in early 2023 was welcome, the immediate expulsion of the prisoners showed that the Ortega-Murillo government has no tolerance for dissent; the repression and detention of activists have continued in recent months.

The United States government, along with others in Latin America and Europe, has sought, through bilateral and multi-lateral diplomacy, to press the Ortega-Murillo regime to release prisoners, open political space, and move toward free and fair elections. Diplomacy has been accompanied by various sanctions, including asset-blocking measures directed against 46 individuals and 11 entities and visa denials directed at over 800 Nicaraguan officials and their family members. In 2022, the Administration took the further step of cutting off Nicaragua's sugar quota and imposing asset freezes on companies in the gold mining sector in Nicaragua.

Through dialogue, letters, hearings, and legislation, Congress has urged the Administration to do more and has provided some tools for further sanctions. The NICA Act and the RENACER Act directed the U.S. to vote against loans to Nicaragua in international financial institutions, encouraged an investigation of any U.S. assets held by the Nicaraguan Armed Forces Social Welfare Fund, urged the Administration to explore ending Nicaragua's participation in the CAFTA- DR trade agreement, and expanded the Administration's authority to sanction individuals and institutions in Nicaragua.

The U.S. has taken some steps to restrict Nicaragua's access to international financial institution funding, though more can be done. The U.S. has not yet, at least publicly, investigated the assets of the Nicaraguan Armed Forces' Social Welfare Fund. It has reportedly debated steps to suspend Nicaragua from the CAFTA- DR agreement. Still, there are a series of legal and political reasons why it is unlikely to be able to end Nicaragua's participation. It has increased individual and institutional sanctions. Perhaps most importantly, it has imposed sanctions on the Nicaraguan sugar and gold mining sectors and released an Executive Order that permits the exploration of further sanctions against specific sectors of the Nicaraguan economy.

To date, neither diplomacy nor sanctions have brought the Nicaraguan government to change its behavior. Experience in foreign relations suggests that a strategy moving forward that is built around a “maximum pressure” sanctions approach may be ineffective, if not counterproductive. The Administration should pursue a careful strategy that combines diplomacy and incentives in response to behavioral change by the Nicaraguan government, with carefully targeted sanctions designed to bring pressure to bear on the Nicaraguan government and its close allies and not to punish the Nicaraguan people.

The Administration should clearly articulate its overall approach. The Administration will employ a mix of diplomacy and engagement, incentives, and sanctions to encourage an end to repression, free and fair elections, and support the Nicaraguan people. U.S. actions are intended to support the Nicaraguan people and vulnerable sectors, not punish them; intended to encourage change, not to seek a change in the government. The U.S. will dialogue with the Nicaraguan government where possible. It will engage with allies and others throughout the hemisphere to use their voice and leverage, whether public or private, to push for change.

This report recommends a series of steps that this Administration could take. They include:

1) The Administration should seek a higher level of coordination and priority on Nicaragua policy, naming a special coordinator to pull together the elements of Nicaragua strategy and to make a case for the importance of Nicaragua's human rights and democracy issues in larger administration debates about priorities, sanctions, etc.

2) The Administration should explore further sectoral sanctions based on Executive Order 14088. Specifically:

Evaluate the impact of the gold and sugar sanctions that have been imposed.

Explore sanctions on the beef export sector for its impact on business elites; its potential effects for pressuring the government; its implications for employment, and its relationship to Nicaraguan and international campaigns against the beef sector because of environmental, deforestation, and indigenous rights concerns.

Evaluate the potential for sanctions in other sectors (coffee, light industry, textile). While sanctions on these sectors could be politically difficult, the Administration should make clear that these areas are under consideration and carry out the necessary research.

Use the labor and environmental provisions of the CAFTA- DR agreement to raise concerns about the behavior of firms on labor rights in the free trade zones and of investors in the mining sector, laying the groundwork for potential targeted sectoral sanctions.

3) Congress should hold hearings on the relationship between trade and human rights and democracy issues in Nicaragua. These hearings should explore whether CAFTA- DR might permit trade restrictions, the pros and cons of such limits, the example of European democracy clauses in trade agreements, and related issues.

4) Congress and the Administration should reinforce the pressure on the Nicaraguan government that comes through limits on loans and grants from international financial institutions. Specifically:

The U.S. Executive Director at the IMF and the Treasury Department should press IMF leadership and staff to express stronger governance concerns about Nicaragua in the context of loans and reviews.

The U.S. Executive Directors at the World Bank and the IDB should press IDB staff to do more thorough oversight and closer monitoring of bank loans to ensure that they are not indirectly supporting the government.

The United States should take action to make clear to the directors and staff of the Central American Bank for Economic Integration its disapproval of unrestricted loans offered to the Nicaraguan government.

5) Congress should urge the Administration to report steps taken to impose U.S. financial restrictions on the Nicaraguan military's pension fund and any possible investments by that fund in U.S. financial instruments.

6) The Administration should make clear its willingness to explore areas for engagement and incentives for change, particularly with the possible inclusion of Nicaragua in the Call for Action on Central America and the Partnership for Central America.

NICA AND RENACER ACTS: TOOLS FOR ECONOMIC PRESSURE?

Background

The purpose of this study was to analyze the tools offered by the RENACER and NICA Act to apply economic pressure on the Nicaraguan government to protect human rights and restore democracy and to explore whether and how sanctions might lead to meaningful pressure on the regime leadership and influential sectors. In addition, the study takes a preliminary look at companies and individuals or trade sectors that sustain the regime that could be sanctioned in the future.

This paper is based on interviews with members of Congress, staff, Biden Administration officials, staff at non-governmental organizations, and on-desk research. Steps taken to date were identified, including individual and entity sanctions and pressure through international financial institutions. Critical weaknesses were identified as well, such as the CAFTA- DR free trade agreement not having a clause that might allow the U.S. to suspend or expel another participating country; and insufficient oversight or influence by U.S. Executive Directors at the IDB and World Bank to deny loans or grants that might benefit the Nicaraguan government. The IMF needs to be revised as well.

Political challenges were also identified --a reluctance to use trade restrictions out of concern for U.S. investors and U.S. businesses trading with Nicaragua, expressions of concern about the impact on the workers of Nicaragua, and issues about the prioritization of human rights and democracy vis a vis migration and drug trafficking in U.S. policy toward Nicaragua. The Nicaragua-specific debates intersect with broader discussions in the Administration and Congress about the use of sanctions, with the Treasury Department releasing a report in 2021 that argued the U.S. needed to "adapt and modernize the underlying operational architecture by which sanctions are deployed." This report details some political challenges and how they might be addressed.

The tool with the most significant potential is the Biden Administration's most recent executive order on trade restrictions, Executive Order 14088. That order permits the Administration to sanction individuals, companies, or economic sectors that benefit the Ortega-Murillo regime. It allows the Administration to look at crucial export sectors of the Nicaraguan economy and consider potential restrictions that might bring pressure to bear on the Nicaraguan government. Prior to the release of the

Executive Order, the Biden Administration had targeted two economic sectors – the Nicaraguan sugar industry and the growing gold mining sector. In June of 2022, the Administration exercised its discretion and announced its intention to drop Nicaragua from the list of countries assigned import quotas of low-tariff sugar for 2023. In July of 2022, using the Trump Administration's Executive Order 13851, the Administration prohibited U.S. persons or entities from investing in or trading in the gold mining industry in Nicaragua. (And with the release of EO 14088, the Administration extended the gold sector sanctions more broadly.)

While evaluating the political effectiveness, and the economic and social impacts of the sugar and gold bans, the Administration can now explore using that executive authority to impose sanctions on other sectors, especially export sectors, of the Nicaraguan economy, as part of a more comprehensive strategy to seek the release of 47 prisoners, open space for dissent, and pursue free and fair elections in Nicaragua. Specifically, the Administration should explore the costs and benefits of banning Nicaraguan beef exports, coffee, and cotton exports, auto parts and other light manufacturing exports, and --though this is the most complicated -- textile exports to the United States. For various reasons, the United States should begin with sectoral sanctions on Nicaraguan beef imports to the United States.

While legal and political obstacles make it unlikely that the United States government will press for Nicaragua's suspension from the CAFTA- DR agreement (unless it takes a highly confrontational stand and invokes U.S. national security interests), it ought to pursue specific measures within the agreement intended to limit benefits because of violations of labor rights, indigenous rights, and environmental concerns.

The Administration should also explore ways to increase oversight of international financial institutions' loans that benefit the Nicaraguan government and exert pressure on the Central American Bank for Economic Integration (CABEI) to limit its loans to the Nicaraguan government.

In addition, the Administration should explore any incentives it has to offer Nicaragua in response to the movement on human rights issues and free and fair elections. While there are no signs that the Ortega-Murillo regime might be open to progress on human rights, the Administration should keep the door open to this possibility. For example, as the Administration develops its "Call for Action," an initiative to encourage private sector and social enterprise investment in the region to address the economic insecurity and inequality that is one key driver of migration, it should consider the possibility of including Nicaragua in some way in the initiative in response to progress on reforms that open space for political dialogue and help create the conditions for free and fair elections.

RECENT U.S. POLICY TOWARD NICARAGUA

Background

In 2018 and 2021, the U.S. Congress passed the NICA Act and the RENACER Act to pressure the Nicaraguan government to restore democracy, strengthen the rule of law, and respect human rights.

Five years ago, President Daniel Ortega and Vice-President Rosario Murillo cracked down on widespread demonstrations protesting changes to social security programs; more than 355 people were killed in the period between April 2018 and July 2019, the vast majority by government security and paramilitary forces (Amnistía Internacional, 2018). Since then, Ortega and Murillo have consolidated their authoritarian leadership, ruling with blanket impunity, criminalizing opposition figures, and blunt use of force (Connectas, 2022). Over 2,000 national and international non-governmental organizations, universities, and religious charities have been forced to shut their doors, and the Catholic Church remains under constant attack. Hundreds of people were unjustly imprisoned for up to 13 years under harsh conditions, convicted by kangaroo courts that did not meet even the minimum standards of due process. Presidential elections held in November of 2021 were widely condemned as illegitimate, as significant opposition candidates and many activists were arrested. Starting in 2020, the government enacted laws to eliminate all opposition and repress fundamental freedoms. The laws include the Foreign Agents Law, the Cybercrime Law, the Defense of Sovereignty Law, and the Electoral Law. In February 2023, the regime expelled 220 political prisoners and stripped them and 90 others of citizenship. As of January 2023, over 520,000 Nicaraguans have requested refuge due to the sociopolitical crisis that erupted in 2018 (Expediente Público, 2023a). In March 2023, the Office of the United Nations High Commissioner of Human Rights cited a report from the Group of Independent Experts that charged the Ortega-Murillo regime with crimes against humanity (United Nations, 2023).

Republican and Democratic administrations have had concerns about threats to human rights and democracy in Nicaragua for many years. Legislative proposals in Congress intended to raise the profile of human rights and democracy concerns and to put more significant pressure on the Nicaraguan government date back to early 2017 with the introduction of an earlier version of what became the NICA Act following Daniel Ortega's re-election as President of Nicaragua in November of 2016 (Miranda Aburto, 2018). But concerns intensified after unrest and repression began in April of 2018.

Over the last five years, and across two administrations, U.S. policy towards Nicaragua has been critical of the Ortega-Murillo government and has attempted to promote the restoration of democratic practices, including the right to free expression, free elections, support for human rights and the provision of humanitarian assistance through a mix of pressure and diplomacy (Department of State, 2022). (At the same time, the U.S. has maintained cooperation with Nicaragua on drug trafficking and migration issues, which has sometimes sent mixed messages.) The U.S. has maintained formal diplomatic relations with Nicaragua, pursued multi-lateral diplomacy, including pressures through the Organization of American States, and pursued active diplomacy with Nicaraguan authorities.

Congress has acted through hearings and expressions of concern to the Administration, primarily through the passage of legislation. The Nicaraguan Human Rights and Anticorruption Act, commonly called the NICA Act, was first introduced in the House of Representatives in 2017 as the Nicaragua Investment Conditionality Act. After discussions and revisions, and after the repression of 2018, the NICA Act was approved by both the House and the Senate and became law in December 2018. In April of 2021, the House took up further legislation on Nicaragua, signed into law in November of 2021 as the RENACER Act. Both acts are discussed below.

The Trump administration sanctioned Roberto Rivas, the head of the Nicaraguan electoral tribunal, in late 2017, for his role in the illegitimate elections of 2016 and for acts of corruption (Maldonado, 2017). In 2018, the Administration sanctioned three senior Nicaraguan officials for their role in repression following the protests that began in April of 2018 under the Global Magnitsky Act (U.S. Department of The Treasury, 2018). This executive order made it possible to sanction Nicaraguans for a much broader array of repression than what is possible under other global mechanisms. In November of 2018, the Trump administration issued executive order 13851, authorizing asset freezes and visa removals for Nicaraguan officials found to be responsible for human rights abuses or efforts to undermine democracy, peace, security, and stability in Nicaragua (Office of the Federal Register, 2018). The Trump Administration used that authority to sanction individuals and entities in November 2018 and again in 2019 and 2020, as did the Biden Administration. According to the Congressional Research Service, by March 2023, the U.S. State Department had imposed visa restrictions on more than 800 Nicaraguan individuals and their family members (Rios, 2023). Meanwhile, by June 2023, the Department of the Treasury had imposed asset-blocking sanctions on 46 individuals and 11 entities (U.S. Department of The Treasury, 2023). The sanctioned individuals include Vice President Rosario Murillo, four of the Ortega-Murillo children, and senior government officials. The Biden Administration slashed Nicaragua's sugar quota in July of 2022 and issued an updated executive order (EO 14088) that authorized sectoral trade sanctions

(Office of the Federal Register, 2022). The Administration followed this by sanctioning gold exports from Nicaragua to the United States.

LEGISLATION

NICA Act

On December 20, 2018, the U.S. Congress passed the Nicaraguan Human Rights and Anticorruption Act of 2018, commonly called the NICA Act (H.R.1918 - 115th Congress, 2017-2018). The law sought to "oppose loans at international financial institutions for the Government of Nicaragua unless the Government of Nicaragua is taking effective steps to hold free, fair, and transparent elections." It required that the U.S. Treasury Department instruct the executive director of the World Bank (WB) to oppose any International Finance Corporation (i.e., private sector loan) to Nicaragua and the U.S. executive director of the Inter-American Development Bank (IDB) to vote against extending financial or technical assistance directly to the Nicaraguan government (though it permitted exemptions for basic humanitarian needs and democracy promotion). It directed the U.S. executive director at the International Monetary Fund to "work with other key donor countries to develop a coherent policy approach to future engagements with and lending to the Government of Nicaragua, in a manner that will advance human rights, including the full restoration of the rights guaranteed to the people of Nicaragua."

Along with its focus on restricting loans from international financial institutions to Nicaragua, the bill also authorized the administration to issue visa restrictions and freeze any U.S.-held assets of Nicaraguan individuals or institutions responsible for violence against protesters and/or involved in corruption. Once sanctioned, it would become illegal for U.S. individuals and companies to conduct financial transactions with sanctioned persons. The Trump and Biden administrations have cited the NICA Act, along with other authorities, to issue a number of individual and entity sanctions in the last several years.

The NICA Act expires in December 2023, and Congress may decide to renew or revise it.

RENACER Act

As repression deepened in Nicaragua with greater restrictions on civil society organizations, attacks on the press, and attacks on the political opposition in the run-up to the 2021 electoral contest, the Biden Administration issued some new sanctions, and the Congress debated and eventually approved legislation to increase the pressure on Nicaragua. On November 10, 2021, Congress passed Reinforcing Nicaragua's Adherence to Conditions for Electoral Form Act of 2021, also known as the RENACER Act (S.1064 - 117th Congress, 2021-2022). As the title suggests, the legislation was intended to reinforce the NICA Act. Some thought the Administration had done too little to implement aspects of the NICA Act, and some supporters wanted primarily to signal deepening concern about the situation. The RENACER Act emphasized Congressional support for reviewing Nicaragua's participation in the CAFTA- DR trade agreement; required U.S. leadership in the international financial institutions to advocate for increased oversight of loans and to redirect funding away from Nicaraguan government agencies; charged the Biden administration with implementing targeted visa sanctions of individuals obstructing free and fair elections, undermining democratic processes, or involvement in significant acts of corruption including the Ortega-Murillo family; called for coordination with other countries to imposed targeted sanctions; and, finally, required reports on Russian activities in Nicaragua as well as all purchases and agreements by the Nicaraguan government on behalf of its military or intelligence sector.

The RENACER Act re-emphasized Congressional concern about Nicaragua, re-affirmed elements of the NICA Act, and called attention to several areas where further pressure might be brought to bear on the Nicaraguan government:

Nicaraguan military

Reports suggested that the Nicaraguan Armed Forces had pension funds directly or indirectly invested in U.S. financial institutions. Given that the Armed Forces have played a significant role in repression in Nicaragua, and are vital to the regime's stability (Expediente Abierto, 2021), the RENACER Act called on the Administration to:

> (C) thoroughly investigate the assets and holdings of the Nicaraguan Armed Forces in the United States and consider appropriate actions to hold such forces accountable for gross violations of human rights.

CAFTA- DR

Significantly, the RENACER Act included a congressional finding in Section 3 of the Act that calls on the Biden Administration to review Nicaragua's participation in the 2004 Dominican Republic-Central America-United States Free Trade Agreement (CAFTA- DR) due to the regime's dismantling of democracy, repression, and "extraordinary threat to the national security and foreign policy of the United States." Section 3 (b) reads:

> (b) SENSE OF CONGRESS. —It is the sense of Congress that the President should review the continued participation of Nicaragua in the Dominican Republic-Central America-United States Free Trade Agreement if the Government of Nicaragua continues to tighten its authoritarian rule in an attempt to subvert democratic elections in November 2021 and undermine democracy and human rights in Nicaragua.

By including a clause suggesting the review of Nicaragua's participation in the trade agreement, the U.S. government warned that its participation was at risk. This is the first time in the history of CAFTA- DR that this has been done.

International Financial Institutions (IFIs)

RENACER also called for the U.S. executive directors of international financial institutions to exercise greater oversight and control over loans, financial or technical assistance to guarantee that the assistance did not go directly to the government and inadvertently support the regime through their vote and influence with other members. Section 3 (d) states:

> (d) INCREASED OVERSIGHT.— "(1) IN GENERAL.—The United States Executive Director at each international financial institution of the World Bank Group, the United States Executive Director at the Inter-American Development Bank, and the United States Executive Director at each other international financial institution, including the International Monetary Fund, shall take all practicable steps—" (A) to increase scrutiny of any loan or financial or technical assistance provided for a project in Nicaragua; and "(B) to ensure that the loan or assistance is administered through an entity with full technical, administrative, and financial independence from the Government of Nicaragua." (2)

> MECHANISMS FOR INCREASED SCRUTINY.—The United States Executive Director at each international financial institution described in paragraph (1) shall use the voice, vote, and influence of the United States to encourage that institution to increase oversight mechanisms for new and existing loans or financial or technical assistance provided for a project in Nicaragua.

In the Inter-American Development Bank (IDB), the International Monetary Fund (IMF), and the World Bank (WB), the U.S. is the largest shareholder, and voting power is determined by its shareholding. In the IDB, the U.S. holds 30 percent of the Bank's shares; in the IMF, the U.S. holds 16.5; and in the WB, 17.25 percent. The level of shares indicates the high level of influence that the U.S. has in each of the institutions. (Although historically, the IFIs have been very reluctant to employ any loan conditionality beyond macro-economic policy concerns on member countries (Kentikelenis & Babb, 2021). The IDB and the World Bank have become increasingly sensitive to environmental concerns and environmental policy issues, but formal conditionality related to governance, corruption, democracy, or human rights issues has not been adopted. And while the U.S. is the largest single shareholder and a very influential player in the IFIs, it needs to build support from other shareholders to raise issues like democracy and human rights in the context of international financial policy.)

Reporting

Finally, like the NICA Act, the RENACER Act also included reporting requirements of the Biden administration to the U.S. Congress on the clauses within the laws, such as efforts to strengthen the rule of law, combat corruption, or protect human rights. These reports are unclassified, while reports addressing national security risks are classified.

U.S. ADMINISTRATION'S ACTION ON NICARAGUA

As noted above, successive administrations have taken diplomatic and sanctions-related action on Nicaragua over a number of years. Expressions of concern about the 2016 elections led to the decision to sanction Electoral Tribunal head Roberto Rivas in 2017. In 2018, in response to the repression of demonstrations in Nicaragua, the Administration issued sanctions under the Global Magnitsky Act, and as the Congress was finalizing the NICA Act, the Administration issued an Executive Order in November of 2018, EO 13851, focused on Nicaragua, to make the sanctions provision under the NICA Act actionable. That Executive Order authorized sanctions against individuals and entities in Nicaragua that violated human rights, democracy, peace, security, and stability. Using that executive order, and sometimes referring as well to authority under the NICA Act, the Trump and later Biden Administration issued a series of sanctions over the next four years. It is noteworthy that the broad approach of the visa restrictions, which opened the possibility to target any current or previous government official, shows that the United States government recognizes that the ongoing repression is systematic and that government officials at every level can be considered responsible for the continued repression. As noted above, by March 2023, the U.S. State Department had imposed visa restrictions on more than 800 Nicaraguan individuals and their family members (Rios, 2023), and by June 2023, the Department of the Treasury had imposed asset-blocking sanctions on 46 individuals (including Vice President Rosario Murillo and four of the Ortega-Murillo children), and 11 entities (including the Government of Nicaragua, the National Police, the national petroleum distribution company, the national mining company, and other (U.S. Department of the Treasury, 2023)).

The Administration also took diplomatic steps, including public criticism of electoral fraud and repression, private diplomatic engagement with Nicaragua, efforts to encourage third countries and multi-lateral bodies (especially the OAS) to press Nicaragua on democracy and human rights, and support for efforts in the Inter-American human rights system and the UN human rights system to press Nicaragua.

Some have argued that these efforts could have been better coordinated or received more high-level attention from the Administration, and some have expressed concern that other U.S. interests, including coordination on drug trafficking and migration issues with Nicaragua, have limited the effectiveness of diplomacy and sanctions (U.S. foreign policy analysts, personal communication, 2023). And some have argued that to increase the focus on Nicaragua and the coordination of efforts, there should be a special coordinator for Nicaragua at the State Department or a National Security Council official designated to coordinate Nicaragua's activity, including diplomacy and sanctions.

Repression continued in Nicaragua, in the months leading up to the December 2021 elections, with opposition candidates, their supporters, and grassroots activists harassed, arrested, and imprisoned. The number of political prisoners grew over 2022, and even though the regime released and deported 222 prisoners in early 2023, repression continues today. In the face of this repression, consideration grew about whether the U.S. could impose sanctions that might strike individuals or entities and sectors of the economy closely linked to the regime. Nicaragua is a relatively open and export-driven economy. The United States is the largest purchaser of Nicaraguan exports. The State Department reports that 50% of Nicaragua's exports go to the United States (U.S. Department of State, 2022b). And trade, according to World Bank figures, makes up nearly 90% of the country's GDP (World Integrated Trade Solution, 2022). Those exports include growing gold exports, textiles and light manufacturing (including auto parts), sugar, coffee, and beef. All contribute to the economy and employment and are, to varying degrees, linked closely to the inner circles of the Ortega-Murillo regime.

Gold

In June 2022 and in accordance with Executive Order 13851, the NICA Act, and the RENACER Act, the Biden Administration, through the Treasury Department's Office of Foreign Assets Control (OFAC), designated the state-owned Nicaraguan mining company Empresa Nicaraguense de Minas (ENIMINAS) and ENIMAS board of directors' president, Ruy Delgado Lopez. Gold exports in 2021 in Nicaragua represent $989 million dollars in value, with $898 million of that, or more than 90% of the gold, going to the United States (Observatory of Economic Complexity, 2023). The mining company and its board director were designated due to ENIMINAS's significant role in funding regime supporters.

Some have suggested that the gold mining sanction was motivated not only by – and perhaps not principally by – an effort to push pressure on the Nicaraguan regime but by efforts to continue pressure on Venezuela. Nicaragua is reportedly exporting more gold than it is producing. Evidence shows that Venezuela, whose gold exports are sanctioned, is exporting gold to Nicaragua, consequently the higher export figure (Medina, 2022). Nonetheless, the gold mining sector benefits the Nicaraguan economy (Expediente Público, 2023). This ban and a subsequent expansion of it (see below) could substantially impact the sector and potentially impact the inner circles of the government. And it will please environmental groups and indigenous rights activists concerned about the expansion of gold mining and its impact, including deforestation and water contamination, especially in indigenous areas (Radwin, 2023).

Sugar

In July 2022, the Biden administration excluded Nicaragua from the list of countries that can ship sugar to the U.S. at low tariff rates. According to the U.S. Department of Agriculture, as reported by the Associated Press, Nicaragua exported 22,000 metric tons of sugar, worth $83.5 million, to the U.S. in 2021 under this quota system (Wiseman, & Selser, 2022). While Nicaragua could, in theory, continue to offer sugar for export to the United States, tariffs (permitted for "non-quota" sugar under the CAFTA- DR agreement) would make Nicaraguan sugar uncompetitive. This will force Nicaraguan producers to cut back production or find other, likely less profitable, markets for their sugar. The measure hits a Nicaraguan economic sector dominated by a few critical economic actors (Associated Press, 2022). Nicaragua has charged that the move violates an international trade agreement under the World Trade Organization (Telesur, 2022). Despite this risk, the U.S. decided to exclude sugar imports from Nicaragua due to the grave human rights situation in the country.

LIMITS ON THE EFFECTIVENESS OF SANCTIONS

The Ortega-Murillo regime has resisted U.S. diplomatic appeals and has appeared impervious to the visa and economic sanctions applied by the U.S. and other countries in the last few years. In fact, it has continued to consolidate power and repress any democratic opposition that still exists in Nicaragua. It faces international opprobrium (though Latin American governments have often been less publicly critical than the United States). Despite U.S. and international pressure, the government has detained opposition political leaders and business leaders who have been publicly critical, significantly raising the cost of dissent. While the government released 222 political prisoners in early 2023, it did so only if they agreed to be expelled from the country (the United States agreed to accept them all on a two-year period). The government then revoked people's citizenship and confiscated their assets. It has broken off diplomatic relations with the Vatican, banned Easter processions, and recently sentenced Bishop Rolando José Álvarez to 26 years in prison after he refused to go into exile in February (United States Commission on International Religious Freedom, 2023). And it has recently begun to expropriate church properties in the country (Llanes, 2023). Further, it has announced its intention to withdraw from the OAS, rejected a proposed U.S. envoy, declared the head of the European Union delegation persona non grata, and closed the Vatican embassy in Managua. At the same time, the Ortega government is forging closer ties with Russia and establishing diplomatic relations with China raising concerns in some parts of the U.S. national security community.

There have been moments of dialogue– reportedly, the Ortega administration met quietly with U.S. envoys in 2018 to explore negotiations though the regime ultimately decided to take a hard-line approach, broke off talks, and ended internal negotiations with the broad opposition (Personal Communications, 2023). According to some sources interviewed, Laureano Ortega, one of the sons of Daniel Ortega and Rosario Murillo and a senior government advisor, had high-level contacts with the Administration in early 2022, but these too came to naught (Spetalnick, 2022). And the release and expulsion of political prisoners in early 2023, however ugly a process, seemed to be in response to continuing U.S. and international concerns and pressures. All these suggest that the Nicaraguan government is not indifferent to or unaffected by U.S. pressure but that the regime's calculus is affected by a range of internal and external factors.

This relative impermeability is because economy has grown overall with a post-COVID boom, visa sanctions – while impacting some individuals who have properties, family, or business dealings in the U.S. – have not had as significant impact as had been hoped, the military has continued to stay loyal to the government and to see its interests aligned with the government, business leaders have been afraid to confront regime for fear of arrest, and economic blows have been cushioned, as Nicaragua has sought Chinese and Russian political and financial support[1], and obtained loans from the Central American Bank for International Integration (a regional financial institution in which the U.S. does not participate) (Berg, 2023).

The limited effectiveness of the sanctions to date recalls the experience of U.S. sanctions on Cuba, which has endured despite one of the world's most comprehensive sanctions regimes, and Venezuela, where somewhat more targeted sanctions have arguably helped bring the Maduro government to the negotiating table but have not led to significant concessions on electoral reform (Otis, 2021). And the Trump Administration's efforts to use sanctions to drive a wedge between the Maduro government and the Venezuelan military had the opposite effect --- as senior military officials felt threatened by U.S. sanctions and the possibility of prosecution, they rallied around the government rather than backing away from it. This recalls research suggesting that international sanctions, especially unilateral sanctions, are at best only moderately successful in changing behavior and must be carefully calibrated.

Challenges to sanctions policies

Thus, proposals to expand or deepen sanctions on Nicaragua or elsewhere will face, both inside the U.S. government and more publicly, greater scrutiny, and pro-sanctions advocates will need to make convincing cases for employing specific sanctions. This is not to argue that targeted sanctions, including trade and sectoral sanctions, should not be explored or cannot contribute to pressure on the Nicaraguan regime. In fact, as argued below, some strategies should be pursued. It is simply a reminder that the bar is in some ways higher than it was a few years ago and that those advocating for specific sanctions strategy must make a case for their value and impact as part of a multi-pronged strategy.

In addition, U.S. commercial interests may be affected by sanctions, as U.S. buyers, sellers, and investors are impacted and can push back against sanctions policies. The U.S. apparel industry is one example of this. Proponents of this strategy will have to be prepared to respond to domestic political concerns about the impact of sanctions on the U.S. economy, ready to argue that those impacts are relatively low and that the human rights imperatives are vital.

[1] While Nicaragua certainly benefits from Chinese and Russian trade agreements and investor interest, it is not entirely clear that China or Russia will come Nicaragua's main financial backers. Political support has not necessarily materialized as economic assistance, and it is unlikely that the two countries will become major importers or major investors (Ellis, 2022).

EVALUATION OF THE NICA AND RENACER ACTS

The positive impact of the legislation

Despite the limited progress in getting the regime to change its behavior, author interviews with officials in the administration and congressional offices concur that the NICA Act and the RENACER Act have had positive effects. Both acts have drawn bipartisan support in Congress and, by doing so, have focused more Administration attention – both at the State Department and in the White House – on Nicaraguan policy. While the administration may have had the executive authority to issue many of the individual and entity sanctions it has imposed in recent years, Congressional interest has served as a spur to action. And if the sanctions imposed have not compelled the regime to change its behavior, they have increased pressure and imposed constraints on the Ortega-Murillo regime. Bipartisan support has also sent an important message to the Ortega-Murillo regime that both democrats and republicans in Congress care about human rights and democracy in Nicaragua and that the regime's abuses have eroded liberal sympathies for the Nicaraguan government.

Below are analyses of the major areas of emphasis of the NICA and RENACER Acts.

Targeted Sanctions:

The Executive branch has imposed numerous targeted sanctions, responding to the congressional concern evinced by the two bills and the sanctions authorities provided by the bills and State Department and White House concerns. Since the NICA Act was passed in 2018, targeted sanctions have included asset-blocking sanctions and visa restrictions on members of the Nicaraguan government, legislature, judiciary, and other individuals responsible for undermining democracy, corruption, and human rights violations. As mentioned, as of June 2023, the Department of the Treasury has imposed asset-blocking sanctions on 46 individuals and 11 entities. In addition, the State Department has imposed visa restrictions on more than 800 Nicaraguan individuals and their family members, including Vice President Rosario Murillo, four adult Ortega-Murillo children, and government officials. Other entities designated for economic restrictions include the Government of Nicaragua, the Nicaraguan Petroleum Distributor, the state-owned mining company ENIMINAS and its board president.

The Biden Administration took de facto steps against the sugar and gold mining sectors and, with the release of EO 14088, opened the possibility of expanded sectoral and trade restrictions. As part of the executive order's release, it extended the restrictions on gold mining, banning all U.S. persons and entities from transactions with any gold mining operation in Nicaragua.

These measures have all imposed costs on individual government officials and their families, on the Nicaraguan military, and some sectors of the Nicaraguan economy.

Most everyone interviewed by the author agreed that the strongest tool at the Administration's disposal is the October 2022 Executive Order 14088, which set the basis for sectoral and trade restrictions and the potential for limiting investment in Nicaragua.

Nicaraguan military investments in the United States

The RENACER Act called on the administration to conduct a thorough review of any investments by the Nicaraguan military in the United States. Press accounts had suggested that the pension fund of the Nicaraguan military, the Military Social Welfare Protection Institute or IPSM has investments in land, commercial and industrial activity in Nicaragua, in the Nicaraguan banking sector, and internationally, including some Wall Street investments and holdings in U.S. Treasury Bonds (Bow, 2019). The pension fund makes the military an actor in the Nicaraguan economy, and the stability of the pension fund is important to the legitimacy of the military as an institution, covering retirees and offering career incentives to current officers. In January 2022, the U.S. government sanctioned three members of the board of directors of the IPSM (U.S. Department of State, 2022c). To date, though, at least publicly, the IPSM itself has not been sanctioned. At the Center for Strategic and International Studies, Ryan Berg has urged steps to sanction the IPSM (Berg, 2022).

CAFTA analysis

The RENACER Act called for a review of Nicaragua's participation in the CAFTA- DR free trade agreement, and some congressional supporters of RENACER hoped that it would lead to Nicaragua's suspension from the agreement (Republican Congressional Office, personal communication, 2023). Suspension or expulsion could have a major impact on Nicaragua's economy, given that the United States is Nicaragua's major trading partner and other CAFTA- DR members are smaller but still significant partners. In interviews, multiple sources on both sides of the aisle in Congress expressed disappointment at the lack of action on this issue.

There are a number of issues involved here. First, the language in the RENACER Act is legally not binding, nor does it authorize or direct the president to do something. Instead, **it is worded as a "sense of congress" that it is the opinion of the U.S. Congress that the U.S. administration should review Nicaragua's participation in the trade agreement.** It does not actually require the Biden administration to conduct such a review. At the time, however, it was thought that it would send a strong message to the Ortega-Murillo regime and the importance of their taking steps to restore democratic norms.

Secondly, while there have been reports that the Biden administration is privately reviewing the trade agreement, there are limitations with the trade agreement as to what can be done (Expediente Público, 2023c; Reuters, 2021). For example, while there are lengthy and costly mechanisms in the CAFTA- DR agreement to fine a company for non-compliance with environmental and labor standards or acts of corruption, the CAFTA- DR does not contain a democracy clause nor include procedures for expelling a country on any grounds. A member country can decide to leave the trade agreement unilaterally, but no one country has the authority to withhold benefits or expel another country. To expel Nicaragua, for example, the other member countries would have to ratify the expulsion, and there is a general belief that it is not politically feasible at this time and could risk ending the trade agreement altogether.

In contrast, the European Union has an Association Agreement on trade with Central America that includes the possibility of suspension based on human rights concerns. In practice, the EU has raised human rights and democracy concerns in the context of the Association Agreement but has not used the provision to suspend any trade preferences (Caldentey, 2022). Some experts have valued human rights and democracy as providing leverage for serious policy dialogue; others have criticized the EU for failing to use the human rights enforcement provision meaningfully.

One Senate office and sponsor of the RENACER Act suggested that the Essential Security clause in CAFTA- DR, Article 21 (b), could give the U.S. government the right to unilaterally act to cut off Nicaragua from CAFTA benefits. The Article states that a member of the trade agreement is not prevented from applying measures to protect its essential security interests. The clause reads:

Article 21.2: Essential Security

Nothing in this Agreement shall be construed:

(a) To require a Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests; or

(b) preclude a Party from applying measures that it considers necessary for the fulfillment of its obligations with respect to the maintenance or restoration of international peace or security or the protection of its own essential security interests.

In principle, **if the U.S. concluded that its own essential security interests were at stake, this clause would allow the Administration to end the free trade agreement with Nicaragua, reimpose tariffs on Nicaraguan goods, or even end all U.S. trade with Nicaragua.**

The security interests include the regime's engagement with Russia and China and the large out-migration of Nicaraguans to the United States and neighboring countries, such as Costa Rica. On the geopolitical issues, the United States has concerns. For instance, last June, the Nicaraguan government renewed the authorization of Russian military forces to operate in the country, and later, in November, the Chinese government donated equipment to the Nicaraguan police forces (Ellis, 2022; Pelcastre, 2022). The Nicaraguan government reestablished relations with China after breaking political relations with Taiwan in December 2021 following the fraudulent elections denounced by the U.S., the Organization of American States, and the international community. The strengthening of relations with these two U.S. competitors by the Ortega-Murillo regime is seen as a challenge to U.S. leadership, security, and regional stability by voices in Congress and in the administration and Congress. At the same time, many analysts believe that the level of Russian and Chinese engagement, while of concern, does not reach the threshold needed to invoke the security clause and suspend CAFTA- DR benefits.

Invoking the security clause to end the current CAFTA- DR trade relationship between the U.S. and Nicaragua would be an unprecedented move and would likely have repercussions on U.S. relations with other CAFTA- DR countries and implications for U.S. assessments of security concerns elsewhere in Central America and the hemisphere. It would likely require a finding by the Pentagon, the intelligence community, and the White House of a serious threat to U.S. national security. There is little evidence to indicate that it's under consideration.

A third complication concerns the plurilateral nature of the trade agreement. With CAFTA- DR, there are obligations among all countries, not just bilaterally between two countries. The integrated supply chains and shared inputs between multiple countries would complicate and disrupt existing contractual agreements. Only one Administration official thought it would be possible to rearrange supply chains, excluding Nicaragua (White House Official, personal communication, 2023). Nicaragua is part of a number of regional supply chains, particularly in the textile and apparel industry, but also including call centers and some auto parts manufacturing. Both the Biden Administration and Congress support the concept of "near-shoring," in which supply chains shift toward countries geographically closer to the United States, both because of interest in breaking away from supply chains dependent on China (and international shipping) and because of interest in job creation in Central America to reduce migration incentives.

A fourth complication is U.S. obligations to World Trade Organization rules. It is not clear that unilaterally suspending CAFTA obligations vis a vis Nicaragua, even under the national security exception, would comply with WTO rules. The USTR reportedly wanted to do something in response to the situation in Nicaragua but was conscious that an action--- like a sugar quota ban or CAFTA suspension -- would violate a WTO trade rule, triggering a multilateral dispute settlement process that can take decades.

Finally, there is also the separate but shared concern that using CAFTA-DR suspension as a bludgeon against the Ortega-Murillo regime would hurt ordinary Nicaraguan workers. Nicaraguan exports to the United States rocketed from $3.2 billion in 2017 to $5.7 billion in 2022 (Orozco, 2023a). Trade brings benefits to the Nicaraguan economy overall, and economic growth brings a level of legitimacy to the government and helps contribute to the political security of the regime. Some trade may directly benefit regime insiders, who are owners or investors in particular businesses. While most agree that trade is propping up the regime, they also believe workers and businesses not related to the regime are benefiting as well from the robust trade, and there are concerns that restricting trade will reduce jobs and hurt workers. Of particular concern is to not create mass unemployment or mass out-migration. The U.S. government is conscious that Nicaraguan outmigration has grown in recent years – driven by repression and by the economic slowdown during COVID -- and that the number of Nicaraguans arriving at U.S. borders has grown significantly. There are concerns that broad trade restrictions could drive further migration. Further, the Administration is committed to addressing the root causes of migration by creating prosperity, and there are concerns that broad trade restrictions on Nicaragua would appear at odds with this strategy. (Of course, the Administration has linked prosperity to improvements in transparency, the rule of law, and democratic governance in the region, and Nicaragua is moving backward on all those issues. Still, Administration officials hate to take steps that might lead to increased migration, especially when migration and border issues are sensitive topics in the United States and the run-up to U.S. elections in 2024.) Any broad trade restriction that might impact workers in Nicaragua and potentially impact outmigration would have to be carefully analyzed, weighing any possible benefit in pressure on the regime against the cost.

For all these reasons, it seems unlikely that the U.S. can or will seek to end Nicaragua's participation in CAFTA. There are legal and threat issues, relations with other nations, and the WTO to be considered. A security-based exception would represent a major escalation in the U.S. -Nicaraguan confrontation and have implications for security relations elsewhere in the region and the hemisphere. And there are concerns about the impact on ordinary Nicaraguans and migration. While it is galling for the U.S. to extend CAFTA- DR trade preferences to a country with serious human rights abuses, ending Nicaragua's participation at this point would be difficult.

That does not mean, however, that there are no CAFTA- DR provisions, short of full suspension, that might be used to bring pressure to bear on the Nicaraguan government.

As the Inter-American Dialogue's Manuel Orozco has argued, CAFTA includes agreements on labor and environmental rights (Orozco, 2023b). Private parties can file complaints about violations of labor rights and about governments' failure to comply with existing environmental laws and agreements. There is a ministerial-level Labor Council among the seven member countries and ongoing mechanisms for dialogue about labor law enforcement. Similar mechanisms exist for environmental concerns. Nicaragua has serious concerns about labor rights, especially in the free trade zones. According to the State Department's Human Rights report for 2022, "The government's control of all major unions effectively nullified the right of workers to join independent unions of their own choice. The ruling party used its control over major unions to harass and intimidate workers in several sectors, including education, health care, the public sector, and free trade zones." On the environmental side, a similar Environmental Affairs Council exists, and there are serious concerns about the environmental impact of mining and its impact on indigenous people. At the same time, the Councils have limited enforcement powers; the United States should use them to raise concerns about non-compliance by the Nicaraguan government, employers in the free trade zones, and investors in mining projects. These efforts should seek to raise the visibility of Nicaragua's behavior and possibly open the way for U.S. action on specific sectoral sanctions (discussed in greater detail below).

International Financial Institutions Analysis

On overseeing the international financial institutions' loans to Nicaragua, Administration sources positively evaluated the process. The U.S. executive directors have provided oversight and redirected funding away from the government and focused on humanitarian needs like COVID response and disaster relief. Lending levels from the IDB and the World Bank have dropped significantly. Some Administration sources argued that further restrictions would be difficult, given that the U.S. is only one member and that other executive directors need to use their votes and influence on loans and assistance to Nicaragua.

While it may be true that the U.S. representatives in the IFIs have voted against loans or technical assistance, and lending levels have dropped, a review of IFI support to Nicaragua shows that some financial assistance to the regime continues. The kinds of major loans that supported Nicaragua in earlier years have come to a halt, but the World Bank and the IDB extended loans for COVID response and natural disasters response that went through government agencies, as well as a number of technical assistance grants. These loans have approached a total of $500 million (World Bank Group Finances, 2023). Meanwhile, the International Monetary Fund has extended loans at least $180 million, with some sources saying the totals reach nearly $540 million.

The NICA Act provides an exemption for loans intended to meet basic human needs, but there are certainly issues to be raised about some of the loans involved and about the role of the IMF.

For example, a review of the IDB's 2022 activities report, "Creating Opportunities and Building Resilience: Priorities for a Sustainable Recovery: The IDB Group in the Central American Isthmus and the Dominican Republic" shows that some loans or technical assistance to the Nicaraguan government were not simply humanitarian in nature and often couched in the language of supporting vulnerable populations, poverty reduction and resilient housing. Here are a few examples:

1. A contingent loan of US$46.9 million to respond to natural disasters also involved the renewal of existing foreign trade lines.

2. A loan of US$100,000 to devise a plan to improve opportunities for small livestock producers because of this sector's importance in the national economy. While there is an argument for supporting small producers, most beef is grown for export, and it is troubling that trade relations between the two continue to thrive despite the democratic backsliding.

3. A loan of (US$34 million through IDB Invest) for the Banco de la Producción Trade Finance Facilitation Program (TFFP). This operation, approved as part of IDB Invest's current financing lines for financial institutions under the TFFP, aims to finance short-term foreign trade transactions and support companies in the agro-export production chains on which Banco focuses. As noted previously, while civil and political rights have deteriorated under the authoritarian regime of Ortega-Murillo, trade has not been affected but has grown since the civil strife began in 2018.

4. A technical cooperation loan for yet another Nicaragua Poverty Map (US$500,000). This initiative will map poverty conditions in vulnerable regions to identify obstacles and opportunities for development strategies in order to reduce poverty levels and inequality gaps. Nicaragua has been and continues to be one of the poorest countries in the region, documented by international financial institutions and international bodies for decades. It is not clear why an additional poverty mapping is necessary or how it will significantly address reducing poverty now or in the future.

Similarly, the IMF's 2022 review of Nicaragua – a review that makes possible new lending- does not mention the political, economic, and social crisis in Nicaragua. In fact, the staff report cites "steps to enhance governance" (International Monetary Fund, 2022). While both the IDB and the World Bank have more formal commitments to development, poverty reduction, and democratic governance than does the IMF, there is no evidence that the Fund, or the U.S. executive director, is pushing the institution, as the NICA Act directs:

> To work with other key donor countries to develop a coherent policy approach to future engagements with and lending to the Government of Nicaragua in a manner that will advance human rights, including the full restoration of the rights guaranteed to the people of Nicaragua through the commitments made by the Government of Nicaragua as a signatory of the International Covenant on Civil and Political Rights (H.R.1918 - 115th Congress 2017-2018).

It's particularly noticeable that the IMF report on Nicaragua moved apparently smoothly through the internal review process, while the country report on neighboring El Salvador was slowed repeatedly as Fund officials expressed concerns about the use of Bitcoin and (reportedly) about authoritarian tendencies in the government (International Monetary Fund News, 2022).

The RENACER called for the U.S. executive directors of the international financial institutions to use their vote and influence with other members to exercise greater oversight and control over loans, financial or technical assistance. While funding has been reduced, some levels of funding continue to go to Nicaragua. While no one disputes the importance of addressing humanitarian crises, much of the funding provides a safety valve for the Ortega government and continues to foster commercial relations, which arguably prop up the regime.

The Senate Foreign Relations Committee and House Foreign Affairs Committee should consider holding congressional hearings with the executive directors to better understand why loans, technical and financial assistance to the Nicaraguan regime continues and alternative strategies.

While lending from international financial institutions to Nicaragua did drop, one regional financial institution, the Central American Bank for Economic Integration, CABEI, did step in to provide substantial financial resources to the Nicaraguan government. The CABEI is a multi-lateral financial institution founded by Central American governments and supported by them and a number of other actors, including Spain, South Korea, Colombia, and others, that provides development financing to its Central American members. The U.S. is not a member. The CABEI has, since 2018, offered financing to Nicaragua, approaching $3.5 billion (Berg, 2023). Congress and the Administration should look at measures to encourage the CABEI to rethink its lending to Nicaragua, given the severe problems with human rights and democracy.

POSSIBILITY OF FURTHER SECTORAL SANCTIONS

Later, on October 24, 2022, the Biden administration issued Executive Order 14088, which paved the way for the Treasury Department to impose sectoral sanctions, further trade restrictions, and new investments in certain sectors of the Nicaraguan economy. The State Department's announcement on the EO states specifically states human rights violations and Russian concerns:

> *"The Nicaraguan government's accelerating actions this year closing space for civil society, increasing its security cooperation with Russia, and silencing independent voices despite broad international calls for dialogue and moderation compel the United States to act," and*
>
> *"Governments that deny their people's basic rights or threaten the security interests of their neighbors should not expect that their political, economic, and trade relationships will remain unaffected" (The White House, 2022).*

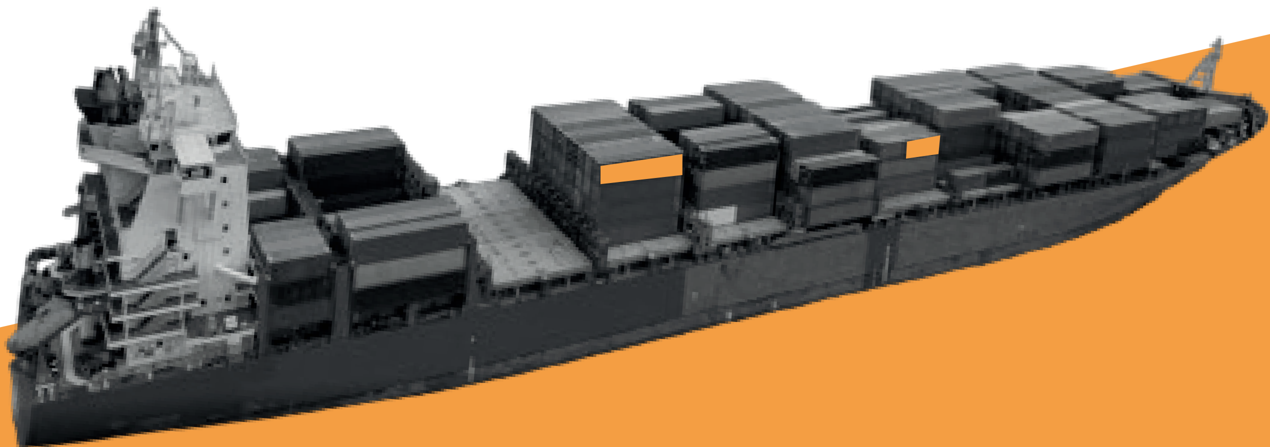
The new EO does not mention Nicaragua's participation in CAFTA-DR but specifically authorizes the Treasury Department in consultation with State to choose to prohibit the following as to be determined by the Treasury Department in consultation with the Commerce and State Departments:

• Imports of any products of Nicaraguan origin;
• Exports, reexports, sales, or supply, directly or indirectly, from the U.S. or by a person from the U.S., wherever located, to any person located in Nicaragua;
• New investment by a U.S. person, wherever located, in any sector of the Nicaraguan economy;
• Any approval, financing, facilitation, or guarantee by a person from the U.S., wherever located, of a transaction by a foreign person that would be prohibited by this EO if performed by a person from the U.S. or within the U.S.

In addition, the EO expands an existing block on assets to include persons determined to operate or have operated in Nicaragua's gold sector or any other sector that the Treasury Department determines.

While the Biden administration has yet to apply any sanctions pursuant to this executive order, other key sectors that could be explored include major export commodities: beef (as mentioned above, 90% of which is exported to the United States), coffee, tobacco, light manufacturing such as auto parts, and textiles and apparel (Trading Economics, 2023). (All textile and apparel exports together to the United States total more than $2 billion, the largest category of exports.)

In considering whether to impose specific sectoral sanctions, the Administration will have to take a case-by-case approach. It will need to analyze the relative impact of sectoral sanctions on Nicaraguan workers and small producers versus their potential targeted impact on elites, potential spill-over effects on the Nicaraguan economy overall, what other issues are relevant to the sector, and the effect on U.S. importers and consumers. (To provide a simple example, the Nicaraguan beef industry exported about 337 million dollars of products to the United States in 2022, almost 10% of Nicaragua's total exports to the U.S. There are about 135,000 registered ranchers in Nicaragua, along with their permanent and seasonal employees, and they sell to a small number of major slaughterhouses, which then export to the United States (Economic Research Service, 2023). Nicaraguan exports make up only about 5% of total U.S. beef imports. Along with concerns about the sector's contribution to supporting the Nicaraguan government, concerns have been raised in Nicaragua about the expansion of the cattle industry, with cattle producers seizing land from indigenous communities, and there are campaigns to rein in Nicaraguan beef production because of this.)



RECOMMENDATIONS

RECOMMENDATIONS

The release of political prisoners, freedom to dissent, and free and fair elections will emerge in Nicaragua from the actions and pressures of Nicaraguans themselves. The international community can and should support them in these efforts. One element of international community support can take the form of carefully targeted sanctions. Sanctions by themselves are not magic bullets but can be useful elements of a broader policy when thoughtfully deployed. Their impact will be felt over time and in coordination with other aspects of policy. Targeted sanctions can pressure the regime and its close allies, possibly create internal divisions, and put pressure on elites and key economic sectors. At the same time, while they can create discontent with the government, they can also harm the population, and thus external actors must act carefully so as not to punish civilians. Beyond individual sanctions, carefully selected sectoral sanctions might have an impact. Administration officials in the State Department, U.S. Trade Representative's office, Commerce Department, and others should carefully analyze the costs and benefits of sectoral sanctions.

At the same time, the Administration should continue to explore possible incentives for improvement, such as participation in the Call to Action and Partnership for Central America, and should maintain avenues for dialogue.

The Administration should articulate clearly its overall approach. The Administration will employ a mix of diplomacy and engagement, incentives and sanctions to encourage an end to repression, free and fair elections, and support the Nicaraguan people. U.S. actions are intended to support the Nicaraguan people and vulnerable sectors, not punish them; intended to encourage change, not to overthrow the government. The U.S. will dialogue with the Nicaraguan government where possible and will engage with allies and others throughout the hemisphere to use their voice and leverage, whether public or private, to push for change.

The following specific recommendations have emerged from this report and its review of the NICA and RENACER Acts and of other U.S. actions vis-à-vis Nicaragua:

1) The Administration should seek, and Congress should urge it to seek, a higher level of coordination and priority on Nicaragua policy, naming a special coordinator at the State Department or a senior official at the NSC to pull together the elements of Nicaragua strategy, and to make a case for the importance of Nicaragua human rights and democracy issues in larger administration debates about priorities, sanctions, etc.

2) The Administration should explore further sectoral sanctions based on EO 14088. Specifically:

> Conduct an evaluation of the impact of the gold and sugar sanctions that have been imposed to date, including informed estimates about the pressures they have generated on regime leaders and how they are understood and assessed by the population.
>
> Explore sanctions on the beef export sector, including assessments of the impact on ranchers and their employees, on owners of major slaughterhouses and on their ability to pressure the government, and on the impact that a freeze might have on environmental, deforestation, and indigenous rights concerns.
>
> Evaluate the potential for sanctions in other sectors (coffee, light industry, textile). While sanctions on these sectors would be politically very difficult because of supply chain issues, U.S. investments, etc., the Administration should make clear that these areas are under consideration by doing the needed research.
>
> Use the labor and environmental provisions of the CAFTA- DR agreement to raise concerns about the behavior of firms on labor rights in the free trade zones and of investors in the mining sector, laying the groundwork for potential targeted sectoral sanctions.

3) Congress, through the appropriate foreign affairs committees and those with oversight on trade issues (Ways and Means, for example), should hold hearings on the relationship between trade and human rights and democracy issues in Nicaragua. These hearings should explore whether CAFTA- DR might permit trade restrictions, the pros and cons of such restrictions, the example of European democracy clauses in trade agreements, and related issues. Such hearings would make clear the continuing concern of the Congress on Nicaragua and the desire not to give the government an unrestricted free pass on trade issues.

4) Congress and the Administration should reinforce the pressure on the Nicaraguan government that comes through limits on loans and grants from international financial institutions. Specifically:

> The U.S. Executive Director at the IMF and the Treasury Department should press IMF leadership and staff to express stronger governance concerns about Nicaragua in the context of loans and reviews;
>
> The U.S. Executive Directors at the World Bank and the IDB should press IDB staff, both at headquarters and in the field, to do more thorough oversight and closer monitoring of bank loans to ensure that they are not unnecessarily providing support to the government.
>
> The United States should make clear to the directors and staff of the Central American Bank for Economic Integration its disapproval of unrestricted loans offered to the Nicaraguan government that appears designed to cushion the government from the pressures of other international financial institutions. This could include dialogue with the CABEI's new president, conversations with other board members, reviews of any U.S.-supported loans to the CABEI itself, and other measures.

5) Congress should urge the Administration to report on what steps it has taken to impose U.S. financial restrictions on the Nicaraguan military's pension fund and any possible investments by that fund in U.S. financial instruments.

6) The Administration should make clear its willingness to explore areas for engagement and incentives for change, particularly in relation to the Call for Action on Central America and the Partnership for Central America.

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