Nicaragua

RISK & COMPLIANCE REPORT

DATE: November 2018

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Executive Summary - Nicaragua	
Sanctions:	US Executive Order
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	US Dept of State Money Laundering Assessment Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score) International Narcotics Control Majors List
Medium Risk Areas:	Non - Compliance with FATF 40 Recommendations

Major Investment Areas:

Agriculture - products:

coffee, bananas, sugarcane, rice, corn, tobacco, sesame, soya, beans; beef, veal, pork, poultry, dairy products; shrimp, lobsters, cotton

Industries:

food processing, chemicals, machinery and metal products, knit and woven apparel, petroleum refining and distribution, beverages, footwear, wood, electric wire harness manufacturing, mining

Exports - commodities:

coffee, beef, gold, sugar, peanuts, shrimp and lobster, tobacco, cigars, automobile wiring harnesses, textiles, apparel, cotton

Exports - partners:

US 54%, Canada 8.4%, Venezuela 7.4%, El Salvador 4.5% (2012)

Imports - commodities:

consumer goods, machinery and equipment, raw materials, petroleum products

Imports - partners:

US 18.8%, Venezuela 14.4%, Mexico 12.1%, Costa Rica 8.8%, China 7.8%, Guatemala 7.6%, El Salvador 5.1% (2012)
Investment Restrictions: Nicaragua's Foreign Investment Law defines the legal framework for foreign investment. The law allows for 100% foreign ownership in most industries Private sector investment is not permitted in these sectors: the National Sewer and Water Company (ENACAL), National Port Authority (EPN), and National Electricity Transmission Company (ENTRESA).

Contents

Section 1 - Background

The Pacific coast of Nicaragua was settled as a Spanish colony from Panama in the early 16th century. Independence from Spain was declared in 1821 and the country became an independent republic in 1838. Britain occupied the Caribbean Coast in the first half of the 19th century, but gradually ceded control of the region in subsequent decades. Violent opposition to governmental manipulation and corruption spread to all classes by 1978 and resulted in a short-lived civil war that brought the Marxist Sandinista guerrillas to power in 1979. Nicaraguan aid to leftist rebels in El Salvador caused the US to sponsor anti-Sandinista contra guerrillas through much of the 1980s. After losing free and fair elections in 1990, 1996, and 2001, former Sandinista President Daniel ORTEGA Saavedra was elected president in 2006 and reelected in 2011. The 2008 municipal elections, 2010 regional elections, November 2011 presidential elections, and 2012 municipal elections were marred by widespread irregularities. Nicaragua's infrastructure and economy - hard hit by the earlier civil war and by Hurricane Mitch in 1998 - are slowly being rebuilt, but democratic institutions have been weakened under the ORTEGA administration.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Nicaragua is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies

Latest FATF Statement - 25 February 2015

The FATF welcomes Nicaragua's significant progress in improving its AML/CFT regime and notes that Nicaragua has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in June 2011. Nicaragua is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Nicaragua will work with GAFILAT as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Nicaragua was undertaken by the Financial Action Task Force (FATF) in 2017. According to that Evaluation, Nicaragua was deemed Compliant for 3 and Largely Compliant for 19 of the FATF 40 Recommendations.

Key findings

Nicaragua has legal and regulatory provisions, as well as an institutional framework allowing combating, at a certain level, Money Laundering (ML) and Terrorist Financing (TF). The current legal framework in force has some deficiencies that limit the general system effectiveness. Nicaragua has made important efforts to understand its risks and has completed the ML/TF National Risk Assessment (ML/TF NRA), and on that basis, it has developed a National Strategy and a AML/CTF National Action Plan (NAP). The level of awareness and understanding of risks is unequal among the different authorities and reporting subjects (RSs). Within the circumstances that have contributed to the variation in the understanding levels of ML/TF risks, it is found the limited participation of some competent authorities on AML/CFT matters, and of the private sector (RSs and other relevant stakeholders), as well.

The intelligence generated by the Financial Analysis Unit (UAF) is disclosed through Final Technical Reports (FTRs), which have enabled law enforcement authorities to identify unjustified property, assets and resources, and also, initiate investigations on ML. The obligation of submitting Suspicious Transactions Reports (STRs) is not expressly set forth by means of law, as required by FATF Standard; however, regulators have issued secondary regulations allowing RSs to submit STRs.

Authorities have conducted efforts for combating ML related to its main threats: drug-trafficking and organized crime. However, cases related to other threats are not addressed in the same manner. There is no evidence that parallel financial investigations are being conducted. Although personal or real property has been confiscated, among others, it is required to improve the statistics collection process on confiscations of products arising from national and international predicate offenses, and on products located abroad, in order to obtain thorough statistics.

Nicaragua has no background on investigations or processes on TF matters. Deficiencies in the criminalization of this offense affect the effectiveness since, despite having an institutional and operational system, Nicaragua would not be capable of adequately identifying, pursuing and prosecuting conducts which are no set as criminal offenses.

Nicaragua has a legal framework that enables compliance with the targeted financial sanctions (TFS) derived from the United Nations Security Council Resolutions (UNSCR) 1267 and 1373. Although Nicaragua has made efforts in assessing the risks related to NPOs, and has taken some approaching actions towards those falling under the FATF definition, the legal framework applicable to non-profit organizations (NPOs) limits the extent of possible AML/CFT measures. There is no legal framework to give compliance with the UNSCR on financing of proliferation of weapons of mass destruction (FPWMD).

Higher-risk industries from the financial sector fall under the scope of AML/CFT regulations; however, financial leasing companies, factoring companies and some intermediary financial institutions of microfinance (IFIMFs) are still out of the regime. In the case of Designated Non-Financial Businesses and Professions (DNFBPs), only casinos and gaming venues are RSs pursuant to the Law. Supervisors still do not apply an adequate risk-based approach (RBA) in the monitoring work of Financial Institutions (FIs).

The beneficial ownership information of legal persons and arrangements is not available, in due time and manner, for competent authorities, and there is no warranty that the information is updated and accurate. In this respect, there are no proportional, deterrent and effective sanctions available to apply in infringement cases.

Nicaragua has a legal framework that allows providing mutual legal assistance (MLA), and in fact, it has offered assistance and cooperation to several countries in ML matters and other offenses.

Risk and general situation

In accordance with the ML/TF NRA, the main highlighted threats of ML were drug-trafficking and organized crime, unlawfull enrichment and bribery, human trafficking, smuggling, tax and customs fraud, and illicit money trafficking. It is necessary to consider the geographical location of Nicaragua in the drug transit route between producer and consumer countries, in the drug transportation to final destination, and in the flow of illicit money resulting from profits. Within the identified vulnerabilities, it is included the conditions to access the formal economy, the intensive use of cash, the use of new methods of payment, and the shortage of human, economic and material resources of RSs, used for ML/TF and FPWMD prevention matters. Among such means that may be used for ML, it is identified gold trading, sale of new and used vehicles, real estate sale (including construction), and electronic money transfer.

The proliferation of activities from remittances and currency exchangers, out of the scope of the AML/CFT regime, is a particular worrisome situation.

About TF, the ML/TF NRA sets forth that in Nicaragua no person has been identified as supporting terrorism with funds from legal or illegal origin, voluntarily or involuntarily, whether national or foreigner. The Nicaraguan authorities have established that, until the end of 2015, terrorism, TF and FPWMD remained as exogenous threats of global extent; however, prevention and combating policies, as well as supporting policies to international efforts made on the matter, must continue being implemented.

Regardless of the identified vulnerabilities, the ML/TF NRA indicates that Nicaragua has strengths that place it as one of the region's safest countries, for example, through the Containing Wall strategy, it has brought improvements in the prevention, combat and criminal prosecution of drug-trafficking and organized crime. Another strength is the effective cohesion between institutions and the society at large.

US Department of State Money Laundering assessment (INCSR)

Nicaragua is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.

OVERVIEW

The Republic of Nicaragua is not a regional financial center but remains vulnerable to money laundering as the country continues to be a transshipment route for illegal drugs destined for the United States and illicit proceeds returning to South America.

Nicaragua has addressed legislative and regulatory issues and dedicated efforts to address numerous noted weaknesses. The 2016 expansion of the list of entities subject to KYC and STR requirements to include non-bank financial institutions and capacity-building activities focused on prevention and assessment of risks have brought Nicaragua's regulations closer to international standards.

To further capitalize on its existing legislative and regulatory framework, Nicaragua should focus on improving its effectiveness at identifying and investigating cases and enforcing information exchange agreements with other nations.

Nicaragua's close relationship with Venezuela, high unemployment, heavy dependence on informal economic sectors, weak governmental institutions, significant reports of corruption at all levels, and the lack of rule of law are of major concern.

VULNERABILITIES AND EXPECTED TYPOLOGIES

Money laundering proceeds mainly arise from corruption or international organized crime groups engaging in the sale of illegal narcotics, most notably cocaine. Nicaragua's geography and limited border control in remote regions leaves it vulnerable to cross-border movement of contraband and criminal proceeds. Money laundering occurs via traditional mechanisms such as real estate transactions, sale of vehicles, livestock farming, money transfers, lending, and serial small transactions. There are 212 companies operating under FTZ status in Nicaragua. The National Free Trade Zone Commission, a government agency, regulates FTZ activities.

The Central America Four Agreement among El Salvador, Guatemala, Honduras, and Nicaragua allows for visa-free movement of citizens of these countries across their respective borders; however, these persons can be subject to immigration or customs inspections. Nevertheless, this agreement makes each participating country vulnerable to the cross-border movement of contraband and criminal proceeds.

There is evidence of informal "cash-and-carry" networks for delivering remittances from abroad. Subject matter experts assess the black market for smuggled goods in Nicaragua is larger than officially recognized. Market vendors deal in cash and many of the goods sold by these vendors are stolen. Experts also believe service businesses, such as hotels, restaurants, and casinos, are particularly vulnerable to money laundering.

Nicaragua's vulnerability to money laundering is increased by the proliferation of shell companies and the existence of multiple, nontransparent quasi-public businesses with ties to the ruling party that manage large cash transactions.

Corruption and impunity cases include local officials and community leaders accused of collaborating with narcotics traffickers and organized crime entities. The courts remain particularly susceptible to bribes, manipulation, and other forms of corruption.

The Nicaraguan government strongly supports Venezuelan president Maduro and has accepted approximately U.S. $3.6 billion from Venezuela since 2007. OFAC-sanctioned Venezuelan petroleum firm Petroleum of Venezuela S.A owns 51 percent of Nicaraguan conglomerate Albanisa.

KEY AML LAWS AND REGULATIONS

Nicaragua has records exchange mechanisms in place with other nations.

Covered entities, including financial and non-bank financial institutions, follow comprehensive KYC and STR regulations and reporting procedures and have enhanced due diligence procedures in place for domestic and foreign PEPs. Criminalization of predicate crimes for money laundering employs an "all serious crimes" approach in which legal persons are covered.

In September 2017, the National Assembly amended Law 735 related to the prevention and prosecution of organized crime and the administration of confiscated and abandoned goods proceeding from organized crime. The amendments protect the rights of bona fide third parties acting in good faith when freezing funds or assets proceeding from crime.

Nicaragua is a member of GAFILAT, a FATF-style regional body.

AML DEFICIENCIES

Weak governmental institutions, deficiencies in the rule of law, and corruption concerns should be addressed. The Nicaraguan legal framework should be further strengthened by considering identity falsification, counterfeiting, and piracy as predicate offenses for money laundering. Without this inclusion, apprehended criminals using these means explicitly to launder money can only be tried for lesser crimes and are not deterred from continuing their laundering activities.

Financial institutions should continue to strengthen their mechanisms to identify and keep records on the origin of funds and final beneficiaries, implement early detection systems, analyze suspicious activities, and report these activities to the FIU. There are regional investigations with indications of illicit flows of money permeating the banking system.

Nicaragua applied for Egmont membership in 2014 and the application remains pending.

ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

In 2017, according to data from the FIU, the Government of Nicaragua conducted 10 investigations, prosecuted nine money laundering-related cases, obtained two convictions, and seized over U.S. $3 million. There are high-profile examples of corruption allegations, but with no action apparently taken.

Current Weaknesses in Government Legislation (2014 INCRS Comparative Tables):

According to the US State Department, Nicaragua does not conform with regard to the following government legislation: -

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

EU White list of Equivalent Jurisdictions

Nicaragua is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Nicaragua is not considered to be an Offshore Financial Centre

Reports

US State Dept Narcotics Report 2017 (introduction):

Introduction

Nicaragua remains a primary transit route for drug trafficking. Nicaragua's long Atlantic and Pacific coasts, large inland lakes, porous border crossings, and sparsely-populated and underdeveloped Caribbean coastal region provide a favorable environment for international criminal groups to exploit by smuggling contraband, including drugs, weapons, currency, and people. Domestic production of marijuana also occurs and Nicaragua faces a growing domestic market for illegal drugs.

The Government of Nicaragua's updated Citizen Security plan for 2016 includes several lines of effort to combat drug use and trafficking. Its "Retaining Wall" (Muro de Contención) strategy promotes a coordinated effort to stop narcotics traffickers from entering the country; however Nicaragua does not have sufficient resources to have complete control of air, land, and sea borders. Nicaragua's capacity to conduct successful interdiction operations is further challenged by limited mobility and communications to patrol the sparsely populated regions in the Caribbean region, lack of dedicated air assets, and limited coordination between the Police, Navy, and the Air Force.

Conclusion

Nicaragua, in cooperation with the United States and others, worked to combat drug trafficking in 2016. The Government of Nicaragua implements an integrated strategy to develop policies and programs to combat drug trafficking, reduce drug demand, and enhance institutional coordination. The Nicaraguan government should continue its efforts to combat organized crime by expanding of its capacity to monitor air, land, and maritime space within the vulnerable Caribbean coast and the Pacific border regions of the country, which remain the primary routes for international drug trafficking. Attention should also be increased to broadening coverage of drug prevention programs and drug rehabilitation facilities.

In addition, the Government of Nicaragua should make a stronger, more consistent effort to cooperate with law enforcement bodies in the region. Institutional corruption and lack of judicial independence must also be addressed to improve the country's drug control efforts.

US State Dept Trafficking in Persons Report 2016 (introduction):

Nicaragua Is classified a Tier 2 country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Nicaragua is principally a source and transit country for men, women, and children subjected to sex trafficking and forced labor. Nicaraguan women and children are subjected to sex trafficking within the country and in other Central American states, Mexico, and the United States. Many trafficking victims are recruited in rural areas or border regions with false promises of high-paying jobs in urban centers and tourist locales, where they are subjected to sex or labor trafficking. Victims' family members are often complicit in their exploitation. Nicaraguan women and children are subjected to sex and labor trafficking in the two Caribbean autonomous regions, where the lack of strong law enforcement institutions and a higher crime rate increase the vulnerability of the local population. Nicaraguans from northern-central departments who migrate to other Central American countries and Europe are reportedly vulnerable to sex and labor trafficking. In addition, children these migrants leave in Nicaragua reportedly become vulnerable to sex and labor trafficking as a result. Nicaraguan adults and children are subjected to forced labor in agriculture, construction, mining, the informal sector, and domestic service within the country and in Costa Rica, Panama, the United States, and other countries. Children in artisanal mining and quarrying are vulnerable to forced labor. NGOs report children and persons with disabilities are subjected to forced begging, particularly in Managua and near tourist centers. Male migrants from Central American countries transit Nicaragua en route to Panama in search of employment; some are subjected to labor trafficking in Panama. Nicaragua is a destination for child sex tourists from the United States, Canada, and Western Europe.

The Government of Nicaragua does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government enacted and began implementing a new trafficking-specific law that imposes stringent penalties for sex and labor trafficking crimes. However, its definition of human trafficking is inconsistent with international law; it conflates human trafficking with other crimes, such as illegal adoption, and establishes the use of force, coercion, or deceit as an aggravating factor rather than an essential element of most trafficking crimes. Authorities continued to prosecute, convict, and impose stringent sentences on traffickers. However, the government identified significantly fewer victims than in 2014, and overall protection efforts were weak; the government did not provide or fund adequate services for victims, nor did it systematically refer all victims to NGOs to receive such care. The government did not have formal procedures for identifying victims among vulnerable groups, and front-line officials were not adequately trained to recognize all forms of trafficking. The government-led anti-trafficking coalition and regional working groups were largely inactive during the year, and key elements of the new trafficking law—such as a dedicated trafficking fund—were not implemented. Prosecution, protection, and prevention efforts in the two Caribbean autonomous regions of Nicaragua continued to be much weaker than in the rest of the country.

Latest US State Dept Terrorism Report 2009

Nicaragua made no substantive progress towards establishing a Financial Intelligence Unit or passing the counterterrorism bill first proposed in 2004. Nicaragua's judiciary remained highly politicized, corrupt, and prone to manipulation by political elites and organized crime and therefore remained a vulnerability that could be exploited by international terrorist groups. President Daniel Ortega's 2007 decision to grant Iranian and Libyan nationals visa-free entry into Nicaragua remained in effect.

President Ortega maintained close relations with the Revolutionary Armed Forces of Colombia (FARC). He also continued to provide safe haven to Doris Torres Bohórquez and Martha Perez Gutiérrez, two suspected FARC associates and survivors of the March 2008 Colombian military operation against the FARC. Both were granted asylum in Nicaragua and welcomed by President Ortega as survivors of "state-sponsored terrorism by Colombia." On October 12, Nicaragua refused Ecuador's request to extradite Torres and Perez on the grounds that doing so would violate their human rights. Senior FARC official Nubia Calderon de Trujillo continued to have humanitarian asylum in Nicaragua.[1]

There was no new information in the case of Alberto Bermudez (aka Rene Alberto Gutierrez Pastran, or "Cojo"), the FARC emissary granted a false Nicaraguan identity by Nicaragua's Supreme Electoral Council (CSE). However, in December, local media reported that the CSE provided official Nicaraguan identity documents for false identities to several suspected drug traffickers, including Amauri Paul (alias Alberto Ruiz Cano), a Colombian criminal who was involved in an attack against Nicaraguan counter-narcotics forces that killed two Nicaraguan Navy personnel.

No known terrorist groups operated openly in Nicaragua; however, both the FARC and the ETA (Basque Fatherland and Liberty) have retired or inactive members residing in Nicaragua.

During 2009, the U.S. Embassy had increasing difficulty obtaining information from or access to civilian officials of the government. In one instance, the government failed to comply with a routine evidence transfer request related to an arms-for-drugs case involving the FARC. Despite this, there were several U.S.- Nicaragua military-to-military counterterrorism-related exchanges during the year.

International Sanctions

On 27 November 2018, the US issued an Executive Order blocking property of certain persons contributing to the situation in Nicaragua in response to the political situation in that country.

Read Executive Order

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	26
World Governance Indicator – Control of Corruption	17

Rampant corruption within Nicaragua's political circles impairs the functioning of state institutions and limits foreign investment. International companies report widespread favoritism and impunity among public officials. The judicial system functions under heavy political pressure, and courts are susceptible to corruption and manipulation by politicians and criminal organizations. High-risk areas for bribery include Nicaragua's tax and customs sectors, where the application of regulations and procedures is arbitrary and is plagued by extortion, facilitation payments and kickbacks. Nicaragua's anti-corruption legislation is comprehensive and addresses all major forms of corruption; including bribery, abuse of office, facilitation payments and gifts to public officials. Nevertheless, the law is not enforced effectively, allowing for pervasive corruption and creating a challenging business environment for foreign companies. **Information provided by GAN Integrity.**

Corruption and Government Transparency - Report by Global Security

Political Climate

Nicaragua is among the poorest nations in the Americas, and corruption, embezzlement and nepotism have thrived in Nicaraguan politics for decades. Former President Enrique Bolaños (2002-2007) received widespread recognition for putting the fight against corruption on the political agenda and some high-profile convictions took place during his term in office - most notably the 2003 conviction of former President Arnoldo Alemán (1997-2002) who received a sentence of 20 years for money laundering, fraud and embezzlement. However, Bolaños struggled with implementing and enforcing anti-corruption reforms in a political space occupied primarily by supporters of Ortega and Alemán. Bolaños has also struggled himself to remain free of allegations of corruption related to his past as Vice President under Alemán.

The fight against corruption and wasteful government spending were featured prominently on President Ortega's electoral platform. However, President Ortega has failed to show satisfactory results in relation to these problems, and according to Alberto Novoa, former Attorney General, cited in Global Integrity 2011, Nicaragua is experiencing one of the most corrupt governments in its history, where corruption and impunity have soared under the current Ortega administration. Since President Ortega took office in January 2007, no high-level politicians or officials have been prosecuted for embezzling public funds. As one of the most visible setbacks, the Supreme Court overturned Alemán's conviction in January 2009 - a decision labelled as politically biased by opposition parties. Alemán's release from house arrest is in fact seen as a consequence of the Pacto Político (Political Pact), a power-sharing agreement between ex-President Alemán and President Ortega. The Pacto Político divides control over key governmental institutions between their respective political parties, the Liberal Party (PLC) and the Sandinistas (FSLN). Several observers agree that this institutional logjam has led to poor performances among formally independent institutions. Corruption and embezzlement is also fuelled by the immunity from prosecution enjoyed by members of the National Assembly, who also belong to the Pacto Político. Furthermore, the Pacto Político gives outgoing Presidents an automatic seat in the legislature, thus securing their immunity from prosecution. In 2009, the Supreme Court, dominated by Sandinista's friendly judges, overturned the National Assembly's effort to maintain the two-term presidential limit, as defined in the Constitution. As a result, Ortega was allowed to run for re-election in November 2011, in which he was re-elected for another five-year term, despite having reached the previous two term limit. The opposition alleged electoral fraud, but electoral observers had not witnessed any significant irregularities, as reported by BBC News in November 2011.

Poor governance and corruption have contributed to a further deterioration of living conditions and distrust in political parties is not only prevalent amongst the general public, but also the businesses executives surveyed in the World Economic Forum Global Competitiveness Report 2012-2013 who gave a score of 2.4 on a 7-point scale to the level of public trust in the ethical standards of Nicaraguan politicians (1 being 'very low' and 7'very high'). In addition, Latinobarómetro 2011 reports that 36% of the surveyed citizens believe that in order to improve the democracy in Nicaragua, corruption needs to be reduced, while 27% of the respondents pointed to a need for an increase in transparency of the government. Lack of integrity is reportedly a huge problem at the lower levels of public administration. Global Integrity 2011 highlights how nepotism and political affiliation play a major role in the appointment of civil servants. Although never a threat to the formal existence of democracy, the efficiency losses caused by dysfunctional public institutions, self-interested politicians, a cumbersome bureaucracy and politicisation of the civil service, have led the World Bank GRICS 2011 to rank Nicaragua lowest among Central American countries in government effectiveness.

Business and Corruption

Since the 1990s, the Nicaraguan business environment has been substantially liberalised. For instance, Nicaragua has abolished all WTO-inconsistent non-tariff barriers and has no commercially-based import prohibitions. Furthermore, the country has signed the Dominican Republic-Central American Free Trade Agreement (DR-CAFTA) that provides a framework for further market improvements and transparency, as it requires each participating government to ensure that bribery affecting trade and investment is treated as a criminal offence. However, the Nicaraguan business environment still suffers from several deficiencies and, as stated by the Bertelsmann Foundation 2012, corruption and a weak legal system pose the greatest threats to the free market economy of Nicaragua. Since 2007, Venezuela has provided a total USD 1.6 billion in aid to Nicaragua, helping the economy avoid the impact of the global financial crisis and more than offset the reduction in aid from Western donors. However, with Venezuela's economic woes increasing, this reliance may prove unsustainable. According to an April 2011 CS Monitor article, questions have also been raised on how this money is being spent, with vague titles given, such as "food security" and "other projects".

According to the World Economic Forum Global Competitiveness Report 2012-2013, companies cite corruption as the fifth most problematic factor for doing business in Nicaragua, after inefficient government bureaucracy, inadequate supply of infrastructure, inadequately educated workforce, and policy instability. According to the same report, business executives report that the diversion of public funds to companies, individuals or groups due to corruption is quite common. The World Bank & IFC's Enterprise Surveys 2010 report that 52% of companies list corruption as a major constraint. However, it must be noted that fewer companies (8%) report that they pay informal payments 'to get things done' compared to the world average of 26%. Cronyism and nepotism are banned as well as the payment of kickbacks for winning contracts. According to Global Integrity 2011, the previous Procurement Law No. 323 contained no known sanctions, and was replaced by the Government Procurement Law (Law No.737, in Spanish). The new amendment closed many loopholes that existed in the previous version, especially the discretion given to the Controller General's Office to exclude certain purchases from competitive bidding in case of emergency or when in 'the public interest', according to the US Department of State 2013. However, as of June 2013, there is no data on its implementation. According to the Global Competitiveness Report 2012-2013, the surveyed business executives continue to indicate that the degree of favouritism in decisions of government officials relating to policies and contracts is high.

Companies should be prepared to deal with corruption when interacting with the registry and permit services; for example, when applying for construction and operating permits and when obtaining access to public utilities, such as electricity, water and telephone connections, as illustrated in the Enterprise Surveys 2010. Furthermore, the absence of effective anti-corruption agencies and whistle-blower mechanisms is a challenge for companies operating in Nicaragua, as it limits the options for reporting cases of corruption. Operating in an environment of inefficient and corrupt public institutions and services poses a challenge to both foreign and Nicaraguan companies. Business operations are complicated and investment is discouraged by a corrupt judicial system that is widely perceived as serving narrow political agendas. Foreign investors considering to establish themselves in Nicaragua are generally advised to consult with experienced attorneys to develop, implement and strengthen integrity systems, and to carry out extensive due diligence before committing funds and when already doing business in the country. In addition, companies are also recommended to use a specialised public procurement due diligence tool in order to mitigate corruption risks during procurement processes in Nicaragua.

Regulatory Environment

Formally, Nicaragua's anti-corruption legislative framework is in place. However, many problems still remain regarding its actual implementation. Checks and balances on powerful politicians are reportedly inadequate, making it fertile ground for grand corruption. The judicial system is also widely perceived to be corrupt and controlled by subjective political interests. Moreover, political connections and nepotism affect regulatory and procurement decisions and regulators are reported to have personal business interests within the sectors they regulate. Although the Access to Information Law was enacted in 2007, lack of transparency and access to information still remain serious problems, according to the US Department of State 2012. The same report states that the law provides exception for disclosure in cases related to national security and trade secrets.

Starting a business in Nicaragua is extremely costly compared to the regional average, and according to the World Bank & IFC Doing Business 2013, it amounts to 100.6% of GNI per capita – about 3 times the regional average and 22 times the OECD average. On the other hand, it takes 8 procedures and 39 days to start a business, which is less than the regional average. Filing business taxes is also very time-consuming, forming a clear competitive disadvantage as the procedure is unpredictable. The time spent obtaining construction permits corresponds with the regional average, but is much more expensive, amounting to 362% of the GNI per capita versus a regional average of 143.7%. Global Integrity 2008 states that rules governing building permits are clear and available to the interested parties. Foreign companies interested in investing in Nicaragua may find useful information on investment opportunities and commercial partners through ProNicaragua, an investment promotion agency established by the Government of Nicaragua, or NicaExport, hosted by the Nicaraguan Centre for Export Promotion. In addition, the Ministry of Development, Industry and Trade (MIFIC, in Spanish) operates Ventanilla Unica de Inversiones, a one-stop shop that provides investment and business licencing information to foreign and domestic investors. The MIFIC also published an investment guide, Doing Business in Nicaragua 2011, with practical information for investors.

According to the US Department of State 2013, resolving commercial disputes, particularly contract enforcement disputes, is one of the largest constraints to investment in Nicaragua. Resolving a dispute is very time-consuming, with Doing Business 2013 reporting that it takes an average of 409 days to enforce a commercial contract dispute at a cost of nearly 27% of the claim. Business executives in the World Economic Forum Global Competitiveness Report 2012-2013 rate the independence of the judiciary as very low. Furthermore, in relation to commercial dispute resolution, investors should note that local courts, especially in the Atlantic regions, frequently act without effective central government oversight. Investors can consult with ProNicaragua, which seeks to facilitate resolution of investment disputes. Nicaragua is a member of the International Centre for the Settlement of Investment Disputes (ICSID), and signatory of the New York Convention of 1958 and Inter-American Convention on International Commercial Arbitration, while the DR-CAFTA establishes an investor-state dispute settlement mechanism. Companies are generally advised to include international arbitration clauses in their business contracts in light of the uncertainties posed by the Nicaraguan judicial system. Access the Lexadin World Law Guide for a collection of legislation in Nicaragua.

Section 3 - Economy

Nicaragua, the poorest country in Central America and the second poorest in the Western Hemisphere, has widespread underemployment and poverty. Textiles and agriculture combined account for nearly 50% of Nicaragua's exports.

The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) has been in effect since April 2006 and has expanded export opportunities for many Nicaraguan agricultural and manufactured goods.

In 2013, the government granted a 50-year concession to a newly formed Chinese-run company to finance and build an inter-oceanic canal and related projects, at an estimated cost of $50 billion. The canal construction has not started.

Agriculture - products:

coffee, bananas, sugarcane, rice, corn, tobacco, cotton, sesame, soya, beans; beef, veal, pork, poultry, dairy products; shrimp, lobsters

Industries:

food processing, chemicals, machinery and metal products, knit and woven apparel, petroleum refining and distribution, beverages, footwear, wood, electric wire harness manufacturing, mining

Exports - commodities:

coffee, beef, gold, sugar, peanuts, shrimp and lobster, tobacco, cigars, automobile wiring harnesses, textiles, apparel, cotton

Exports - partners:

US 56.5%, Mexico 10.7%, Venezuela 5.4%, El Salvador 4.3% (2015)

Imports - commodities:

consumer goods, machinery and equipment, raw materials, petroleum products

Imports - partners:

US 19.9%, Mexico 14.9%, China 10.6%, Venezuela 7%, Costa Rica 7%, El Salvador 5.7%, Guatemala 5.6%, Netherlands Antilles 5.5% (2015)

Banking

In the 1990s, the Nicaraguan Government privatized the banks that had been nationalized during the Ortega administration in the 1980s. In 1999-2001, four banks collapsed as the result of fraud and mismanagement on the part of bank officers. Stability returned to the banking system after the government engineered the transfer of assets and liabilities from the failed banks to several healthy banks. However, the government was forced to issue bonds to finance the purchase of distressed assets. These bonds have become unduly politicized and the subject of two rounds of renegotiations. In 2008, the government filed criminal charges against a former finance minister who refinanced the bonds issued by the government in 2003, as well as other former government officials and banking executives, in what many view as an effort to discredit them politically.

Through the Heavily Indebted Poor Country Initiative (HIPC), the Multilateral Debt Reduction Initiative, and the World Bank's Commercial Debt Buyback Program, the Nicaraguan Government has been able to significantly reduce external debt from more than $12 billion in 1990 to $3.6 billion (58% of GDP) as of September 2010.

Foreign banks have acquired a presence in Nicaragua through the purchase of local banks.

Stock Exchange

The Stock Exchange of Nicaragua (Bolsa de Valores de Nicaragua or BVDN) was created in 1994 and is the sole stock exchange in the country.

Section 4 - Investment Climate

The Government of Nicaragua is actively seeking to increase economic growth by supporting and promoting foreign investment. The Government emphasizes its pragmatic management of the economy through its model of consensus and dialogue with private sector and labor representatives. A key draw for investors is Nicaragua's relatively low-cost and young labor force, with approximately 75 percent of the country under 39 years old. Additionally, the country's relative physical safety compares favorably with other countries in Central America.

To attract investors, Nicaragua offers significant tax incentives in many industries, including mining, and tourism. These include exemptions from import duties, property tax incentives, and income tax relief. The country has a well-established free trade zone regime with major foreign investments in textiles, auto harnessing, medical equipment, call centers, and back office services. The construction sector has also attracted significant investment, buoyed by major infrastructure and housing projects. The country's investment promotion agency, ProNicaragua, is a well-regarded and effective facilitator for foreign investors.

In August 2015, the Government of Nicaragua resolved the last of the property claims disputes covered under Section 527 of the Foreign Relations Authorization Act, ending a twenty-year period of waiver reviews and potential aid restrictions. Although the waiver cases have been resolved, the Embassy continues to hear accounts from U.S. citizens seeking redress for property rights violations that were not covered by this legislation and has raised concerns to the Nicaraguan government about the infringement of private property rights affecting U.S. citizens. The Embassy continues to advocate that the Government resolve all outstanding property claims and improve its overall investment and business climate.

Weak governmental institutions, deficiencies in the rule of law, and extensive executive control can create significant challenges those doing business in Nicaragua, particularly smaller foreign investors. Many individuals and entities raise concerns about customs and tax operations in particular. Large-scale investors and firms with positive relations with the ruling party are advantaged in their dealings with government bureaucracy. There is a widespread perception that the judicial sector and police forces have been politicized and are subject to external influence. Additionally, the important presence of state-owned enterprises and firms owned or controlled by government officials reduces transparency and can put foreign companies at a disadvantage.

American and other property rights holders have voiced concerns over the proposed inter-oceanic canal across Nicaragua. In 2013 the Government of Nicaragua granted the Hong Kong Nicaragua Development Group (HKND) a 100-year concession to build the proposed canal with no competition and no opportunity for public comment. The Nicaraguan law that grants the canal concession states that property owners will be paid at "cadastral value," which U.S. investors fear will be below fair market value and in violation of the Nicaraguan government's obligations under the Free Trade Agreement between the United States, Central America, and the Dominican Republic (CAFTA-DR). The U.S. Embassy in Managua has reminded the Nicaraguan government of its obligations under CAFTA-DR as well as the need for an open and transparent process.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	130 of 168	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2016	125 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	130 of 141	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2014	USD $201	bea.gov
World Bank GNI per capita	2014	USD $1,870	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) of $4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: http://www.mcc.gov/pages/selection/scorecards. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015.

Nicaragua does not have an MCC Compact.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The Government of Nicaragua actively seeks to attract foreign direct investment as one of its primary tools to generate economic growth and increase employment. Many of the investment incentives are designed to attract export-focused companies that require large amounts of unskilled or low-skilled labor.

ProNicaragua is the country's investment and export promotion agency and helps facilitate foreign investment. The agency provides a range of services, including information packages, investment facilitation, and prospecting services to interested investors. It is a well-regarded institution and has been recognized by international organizations as among the most effective investment promotion agencies in the region. For more information, see http://www.pronicaragua.org.

Other Investment Policy Reviews

Nicaragua conducted a trade policy review through the WTO in 2013.

Laws/Regulations on Foreign Direct Investment

The Free Trade Agreement between the United States, Central America, and the Dominican Republic (CAFTA-DR) entered into force on April 1, 2006, for the United States and Nicaragua.

The CAFTA-DR Investment Chapter establishes a secure, predictable legal framework for U.S. investors in Central America and the Dominican Republic. The agreement provides six basic protections: (1) nondiscriminatory treatment relative to domestic investors and investors from third countries; (2) limits on performance requirements; (3) the free transfer of funds related to an investment; (4) protection from expropriation other than in conformity with customary international law; (5) a minimum standard of treatment in conformity with customary international law; and (6) the ability to hire key managerial personnel without regard to nationality. The full text of CAFTA-DR is available at http://www.ustr.gov/trade-agreements/free-trade-agreements/cafta-dr-dominican-republic-central-america-fta/final-text.

In addition to CAFTA-DR, Nicaragua's Foreign Investment Law (Law 344 of 2000) defines the legal framework for foreign investment. The law allows for 100% foreign ownership in most industries (see Right to Private Ownership and Establishment for exceptions). It also establishes the principle of national treatment for investors, guarantees foreign exchange conversion and profit repatriation, clarifies foreigners' access to local financing, and reaffirms respect for private property.

ProNicaragua, the American Chamber of Commerce of Nicaragua, and the Ministry of Trade publish a "Doing Business in Nicaragua 2015-2016" guide for investors with more information regarding existing regulations and laws, available at http://www.amcham.org.ni/?download=6451.

Business Registration

Nicaragua does not have an online business registration system. At a minimum, a company must typically register with the national tax administration, social security administration, and local municipality. The Ministry of Industrial Development and Trade (MIFIC) has established a one-stop shop (Ventanilla Unica) to assist with business registration for foreign investors. According to MIFIC, the process to register a business takes a minimum of 13 days. Establishing a foreign-owned limited liability company (LLC) takes 42 days, and one of the legal representatives of the company must be a resident of Nicaragua. There is no regime allowing simplified business creation without a notary.

Micro, small and medium-sized enterprises (MSMEs) are defined as companies having less than 4, 21, and 51 employees respectively. The Nicaraguan Council of Micro, Small, and Medium Enterprises (CONIMIPYME) is a private organization responsible for facilitating MSME investment and business operations. There are no special benefits available to foreign-owned MSMEs under Nicaraguan law.

Industrial Promotion

ProNicaragua is actively promoting investments in the following sectors: food processing and packaging, textiles, apparel and sporting goods, automotive and ground transportation, environmental technologies, and services. Additional government incentives also exist in the energy and mining sectors. All investment incentives and promotions are disseminated by ProNicaragua.

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreign and domestic private entities have the right to establish and own business enterprises and engage in all forms of remunerative activity. Any individual or entity may make investments of any kind. In general, Nicaraguan law provides equal treatment for domestic and foreign investment. There are a few exceptions imposed by specific laws, such as the Border Law (2010/749), which prohibits foreigners from owning land in certain border areas.

Nicaragua allows foreigners to be shareholders of local companies, but the company's representative must be a national or a foreigner with legal residence in the country. Many companies satisfy this requirement by using their local legal counsel as a representative.

Privatization Program

N/A

Screening of FDI

The Government of Nicaragua does not formally screen, review, or approve foreign direct investments. However, President Daniel Ortega maintains de facto review authority over any foreign direct investments, though the review process remains unclear.

Competition Law

N/A

2. Conversion and Transfer Policies

Foreign Exchange

The Foreign Investment Law (2000/344) and the Banking, Nonbank Intermediary, and Financial Conglomerate Law (2005/561) allow investors to convert freely and transfer funds associated with an investment. CAFTA-DR ensures the free transfer of funds related to a covered investment. Local financial institutions freely exchange U.S. dollars and other foreign currencies. The Superintendent of Banks and other Financial Institutions (SIBOIF) monitors financial transactions for illicit activity, and the Financial Intelligence Unit (UAF) enforces anti-money laundering legislation.

The official exchange rate is adjusted daily by the Nicaraguan Central Bank (BCN) according to a crawling peg that devalues the Córdoba against the U.S. dollar at an annual rate of 5%. The official exchange rate as of December 31, 2015, was 27.93 Córdobas to one U.S. dollar. According to the BCN, the accumulated rate of inflation for 2015 was 3.05%

Remittance Policies

The Foreign Investment Law (2000/344) allows foreign investors to transfer funds abroad, whether dividends, interest or principal on private foreign debt, as well as royalties, and from compensation payments for declarations of eminent domain. Foreign investors also enjoy foreign currency convertibility through the local banking system. There are no limitations on the inflow or outflow of funds for remittances of profits or revenue.

In 2012 the local Financial Analysis Unit (UAF) commenced operations to conduct legal, financial and accounting assessment of local financial entities. On February 27, 2015, the Financial Action Task Force (FATF), an inter-governmental body that develops policies to combat money laundering and terrorist financing, announced that because of the country's progress in such areas, Nicaragua would no longer be subject to FATF's ongoing compliance process.

3. Expropriation and Compensation

During the 1980's, the Government of Nicaragua confiscated approximately 28,000 properties in Nicaragua. Owners were often not compensated even when the right to compensation was recognized by law. Since 1990, thousands of U.S. citizens have filed claims against the government to have their property returned or receive compensation through the administrative process established to address these claims. Section 527 of the Foreign Relations Authorization Act in 1994 threatened meaningful foreign assistance funding restrictions in response to outstanding property claims. In August 2015, the last of these claims was resolved. However, the Embassy continues to hear accounts from U.S. citizens seeking redress for property rights violations which were not covered by this legislation. The Embassy raises concerns to the government about infringement of private property rights affecting U.S. citizens. Some U.S. citizens have reported difficulties exercising property rights due to lack of government action, such as failure by local authorities to remove illegal occupants or long unexplained delays in government authorities' performing basic duties such as cadastral surveys or issuance of documents needed by property owners. The Embassy has also received reports of excessive government action, such as U.S. citizens having been subjected to false accusations as part of efforts to take their properties, including threats to incarcerate those who do not voluntarily surrender property. U.S. citizens who wish to report an expropriation or confiscation of their property by government authorities may contact ManaguaPropOffice@state.gov.

In June 2013, the Government of Nicaragua granted a 100-year concession to Hong Kong Nicaragua Canal Development Investment Company Limited (HKND) to seek funds to build a canal through Nicaragua. This concession included a law that allows the Canal Authority to expropriate any land needed for canal purposes. The Embassy has been contacted by a number of U.S. citizen property owners concerned that their property will be affected by the canal project. The U.S. Embassy in Managua has repeatedly reminded government officials of Nicaragua's obligation under CAFTA-DR Investment Chapter to pay prompt, adequate, and effective compensation when expropriating property for a public purpose.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Nicaragua is a civil law country in which legislation is the primary source of law. The legislative process is found in Articles 140 to 143 of the Constitution. Difficulty in resolving commercial disputes, particularly the enforcement of contracts, remains one of the most serious drawbacks to investment in Nicaragua. The legal system is weak and cumbersome. Members of the judiciary, including those at senior levels, are widely believed to be corrupt and are subject to significant political pressure, especially from the executive branch. A commercial code and bankruptcy law exist, but both are outdated and rarely used.

Bankruptcy

Although bankruptcy provisions are included in the Civil and Commercial Codes, there is no tradition or culture of bankruptcy in Nicaragua. More often than not, companies simply choose to close their operations and set up a new entity without going through a formal bankruptcy procedure, effectively leaving their creditors unprotected. For their part, creditors typically avoid a judicial procedure fraught with uncertainty and instead attempt to collect as much as they can directly from the debtor, or they simply give up on any potential claims they may have. Moreover, Nicaragua's rules on bankruptcy focus on the liquidation of business entities rather than on their reorganization. They do not provide for an equitable treatment of creditors, to the detriment of creditors located in foreign jurisdictions. Because of problems in the country's judicial system, the notion of efficient and impartial resolution of bankruptcy procedures does not exist.

Investment Disputes

Enforcement of court orders is frequently subject to non-judicial considerations. Courts routinely grant injunctions ("amparos") to protect citizen rights by enjoining official investigatory and enforcement actions indefinitely. Foreign investors are at a disadvantage in disputes against nationals with political or personal connections. International treaties, such as CAFTA-DR, become domestic legislation once ratified by the National Assembly, and while CAFTA-DR derogated some laws, these laws have been mistakenly applied by some courts to resolve commercial disputes. Misuse of the criminal justice system sometimes results in individuals being charged with crimes arising out of civil disputes, often to pressure the accused into accepting a civil settlement.

Dispute resolution is even more difficult in the Northern and Southern Caribbean Autonomous Regions, where most of the country's fishery, timber, and mineral resources are located. These large regions, which share a Caribbean history and culture, comprise more than one-third of Nicaragua's land mass. The division of authority between the central government and regional authorities is complex and ambiguous. Local officials may act without effective central government oversight.

International Arbitration

The Mediation and Arbitration Law (2005/540) establishes the legal framework for alternative dispute resolution. The Nicaraguan Chamber of Commerce and Services founded Nicaragua's Mediation and Arbitration Center. Arbitration clauses should be included in business contracts, but legal experts are uncertain whether local courts would enforce awards resulting from international or local proceedings.

The Nicaraguan government accepts binding international arbitration of investment disputes between foreign investors and the state. Nicaragua is party to the Inter-American Convention on International Commercial Arbitration and a member of the International Center for the Settlement of Investment Disputes (ICSID).

CAFTA-DR establishes an investor-state dispute settlement mechanism. An investor who believes the government has breached a substantive obligation under CAFTA-DR or that the government has breached an investment agreement may request binding international arbitration in a forum defined by the Investment Chapter.

ICSID Convention and New York Convention

Nicaragua is a member of the Convention of the Settlement of Investment Disputes between States and Nationals of Other States (ICSID). The Nicaraguan government signed the 1958 New York Convention on the recognition and enforcement of foreign arbitration awards in 2003. There is no specific domestic legislation providing for enforcement under the 1958 New York Convention or for the enforcement of awards under the ICSID Convention.

Duration of Dispute Resolution – Local Courts

Nicaraguan bureaucratic procedures can be slow and cumbersome. U.S. investors should expect that resolutions in Nicaragua will take significantly more time than they do in the United States. Subsequent enforcement of court decisions are generally carried out, although the Embassy is aware of at least one Nicaraguan Supreme Court decision that has not been enforced.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

The Government of Nicaragua has not notified the WTO of any measures that are inconsistent with the requirements of the WTO's Trade Related Investment Measures (TRIMs) obligations. The Embassy is not aware of any measures by the Government of Nicaragua that are inconsistent with its WTO TRIMs obligations.

Foreign investors in Nicaragua are not required to purchase from local sources or to export a specific percentage of output, nor are their access to foreign exchange limited in proportion to their exports. Likewise, Nicaraguan tax and customs incentives apply equally to foreign and domestic investors. Among these incentives, exporters are able to recover most import duties paid on raw materials and components incorporated into exported goods

Investment Incentives

The Tax Equity Law (amended 2009/712) allows firms to claim an income tax credit of 1.5% of the free-on-board (FOB) value of exports. The Law of Temporary Admission for Export Promotion (2001/382) exempts businesses from value-added tax (VAT) for the purchase of machinery, equipment, raw materials, and supplies if used in export processing. Businesses must export 25% of their production to take advantage of these tax benefits. See Foreign Trade Zones/Free Trade Zones for a description of incentives for investments in free trade zones.

The Fishing and Fish Farming Law (2004/489) exempts gasoline used in fishing and fish farming from taxes. This law's Article 111 was amended (2012/797) to allow individuals or companies to request a temporary permit to take advantage of unexploited or underexploited aquatic resources during closed season. Environmental regulations also apply (see Transparency of the Regulatory System).

The Hydroelectric Promotion Law (amended 2005/531) and the Law to Promote Renewable Resource Electricity Generation (2005/532) provide incentives to invest in electricity generation, including duty free imports of capital goods and income and property tax exemptions. Regulatory concerns limit investment despite these incentives (see Transparency of the Regulatory System). In particular, private investment in hydroelectric dams is banned from the Asturias, Apanás, and Río Viejo Rivers, and the approval of the National Assembly is required for projects larger than 30 megawatts on all other rivers.

The Special Law on Mining, Prospecting and Exploitation (2001/387) exempts mining concessionaires from import duties on capital inputs (see Transparency of the Regulatory System for additional information on the mining sector).

The Tourism Incentive Law (amended 2005/575) includes the following basic incentives for investments of $30,000 or more outside Managua and $100,000 or more within Managua: income tax exemption of 80% to 90% for up to 10 years; property tax exemption for up to 10 years; exoneration from import duties on vehicles; and value added tax exemption on the purchase of equipment and construction materials. The General Tourism Law (amended 2010/724) stipulates that hotel owners pay a tax of $0.50 per customer and 2% of the rental rate per room for tourism promotion. It also imposes anti-discrimination, public health, and environmental regulations on tourism-oriented businesses.

Research and Development

N/A

Performance Requirements

Article 14 of the Nicaraguan Labor Code states that 90% of any company's employees must be Nicaraguan. The Ministry of Labor may make exceptions when justified for technical reasons.

Data Storage

There are no requirements for foreign IT providers to turn over source code or provide access to surveillance.

6. Protection of Property Rights

Real Property

Many foreign investors in Nicaragua experience difficulties defending their property rights. The expropriation of 28,000 properties in Nicaragua during the 1980s has resulted in a large number of claims and counter claims involving real estate. Property registries suffer from years of poor recordkeeping, making it difficult to establish a title history, although some improvements have ensued from World Bank-financed projects to modernize the land administration systems in certain regions. Unscrupulous individuals have engaged in protracted confrontations with U.S. investors to wrest control of beachfront properties along the Pacific coast in the Departments of Carazo, Rivas, and Chinandega, as well as prime real estate in the cities of Managua, Granada, and Leon. Judges and municipal authorities have been known to collude with such individuals, and a cottage industry supplies false titles and other documents to those who scheme to steal land.

During the current administration, there have been reports of land invasions. President Ortega has declared on numerous occasions that the government will not act to evict those who have illegally taken possession of private property. Police often refuse to intervene in property invasion cases or assist in the enforcement of court orders to remove illegal occupants.
Those interested in purchasing property in Nicaragua should seek experienced legal counsel very early in the process. The Embassy maintains a list of attorneys, available at http://nicaragua.usembassy.gov/attorneys_registered_at_embassy_managua.html. The Nicaraguan investment promotion agency, ProNicaragua, also offers assistance with due diligence.

The Capital Markets Law (2006/587) provides a legal framework for securitization of movable and real property. The banking system is expanding its loan programs for housing purchases, but there is currently only a limited secondary market for mortgages

Intellectual Property Rights

Through CAFTA-DR implementing legislation, Nicaragua established standards for the protection and enforcement of intellectual property rights (IPR) consistent with U.S. and emerging international intellectual property standards. To implement the agreement, Nicaragua strengthened its legal framework to 1) provide protections for digital products such as software, music, text and videos; 2) afford stronger protection for patents, trademarks, and test data, including an electronic system for the registration and maintenance of trademarks; and 3) deter piracy and counterfeiting.

The legal regime for protection of IPR in Nicaragua is adequate, but enforcement of intellectual property law has been limited. In 2009, the Nicaraguan government focused on improving interagency cooperation on IPR enforcement against copyright and trademark infringement. The Nicaraguan government also improved its cooperation with private industry to combat IPR crimes in some areas, such as identifying vendors of pirated goods and offering training to Nicaraguan police officers. Despite Nicaragua's efforts, the U.S. continues to be concerned about the piracy of optical media and trademark violations in Nicaragua. The U.S. also has concerns about the implementation of Nicaragua's patent obligations under CAFTA-DR, including the mechanism through which patent owners receive notice of submissions from third parties, how the public can access lists of protected patents, and the treatment of undisclosed test data. Nicaragua is not listed in the Office of the U.S. Trade Representative's Special 301 Report or the Notorious Market report.

With the advent of the European Union Central America Association Agreement, a wave of Geographical Indications (GI's) has been registered in Nicaragua for various products of European origin. Thus far, no adverse effects on U.S. businesses have been observed due to implementation of GI obligations under the Association Agreement, although U.S. industry representatives are concerned that this could change in future as markets continue to grow.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en.

Resources for Rights Holders

List of Local Attorneys:
http://nicaragua.usembassy.gov/attorneys_registered_at_embassy_managua.htm

Embassy Managua - Commercial Services
Km 5½ Carretera Sur, Managua, Nicaragua
(505) 2252-7100
ManaguaEcon@state.gov

7. Transparency of the Regulatory System

Investors regularly complain that regulatory authorities are arbitrary, negligent, or slow to apply existing laws, at times in an apparent effort to favor one competitor over another. Lack of a reliable means to resolve disputes with government administrative authorities or business associates quickly has resulted in some disputes becoming intractable. The vast majority of companies in Nicaragua have little accounting and few adhere to internationally accepted accounting standards. The government of Nicaragua does not have transparent policies to establish clear "rules of the game." Companies report that personal connections and affiliation with industry associations and chambers of commerce are critical to navigate the country's regulatory system.

Draft legislation is ostensibly made available for public comment through meetings with associations that will be affected by the proposed regulations. However, no information is published on official websites and the legislature is not required by law to give notice.

The Competition Promotion Law (2007/601) created a decentralized institution, PROCOMPETENCIA, to investigate and discipline businesses engaged in anticompetitive business practices, including price fixing, dividing territories, exclusive dealing, and product tying.

The Government Procurement Law (amended 2010/737) establishes safeguards to encourage open competition among suppliers bidding on government contracts. CAFTA-DR also stipulates that CAFTA-DR member companies receive national treatment when bidding on government contracts. However, there are still many allegations of irregularities in the procurement process, in particular the splitting of procurements into smaller lots, an action which allows the government to use a different set of regulations that creates a less competitive bidding process.

The Directorate General of Taxation in the Ministry of Finance and Public Credit (MHCP) collects income and value-added taxes, as set forth in the Tax Code (2006/598). Investors have complained of arbitrariness in taxation and customs procedures, as well as a lack of delegation of decision-making authority. Tax audits of foreign investors have increased in frequency and duration, to the point where they may hinder normal business operations. Investors also complain that customs authorities classify goods incorrectly and doubt its declared value so as to boost tariff revenue. The Embassy has received complaints from investors and non-governmental organizations about goods and donations being held up in customs without legal reason.

The Environment and Natural Resources Law (amended 2008/647) authorizes the Directorate General for Environmental Quality in the Ministry of Natural Resources and the Environment (MARENA), to evaluate investment plans and monitor ongoing operations to verify compliance with environmental standards. Some investors complain that MARENA takes political considerations into account in determining whether to issue an environmental permit. Budgetary constraints limit MARENA's ability to enforce environmental standards.

The Coastal Law (2009/690) provides a framework for environmental protection, public access rights, commercial activity, and property rights along the shoreline of any body of water in Nicaragua. For coastal property along the Atlantic and Pacific Oceans, the law establishes environmental and public access requirements. Developers have expressed concern that the government implements measurement techniques outside of those stipulated by the law.

In addition to environmental regulation, mining investments are regulated under the Special Law on Mining, Prospecting and Exploitation (2001/387), which the Ministry of Energy and Mines (MEM) administers. MEM also retains the authority to grant oil and gas exploration concessions.

In November 2009 the Committee on Infrastructure and Public Services in the Nicaraguan National Assembly decided to allow MEM to directly issue licenses for study, exploration, and the eventual exploitation of geothermal energy throughout the country (2009/714). These reforms to the Law of Exploration and Exploitation of Geothermal Resource (2002/433) allow

MEM to negotiate directly with any investor interested in geothermal exploration without public bidding or licensing process.

The Electricity Sector Law (amended 2004/465), Energy Stability Law (amended 2008/644), and Electricity Distribution and Use Law (2008/661, amended 2010/731) establish the legal framework for the electric power sector. The Ministry of Energy and Mines Law (2007/612) sets policy for the sector and grants licenses and concessions to investors, while the Nicaraguan Energy Institute sets prices and regulates day-to-day operations. The Renewable Source Electricity Generation Law (2005/532) establishes tax, financial and economic incentives that contribute to renewable energy development within Nicaragua, exonerating hydroelectric, geothermal, wind, and solar energy investors and producers from many taxes.

Under CAFTA-DR, Nicaragua is committed to opening its telecommunications sector to U.S. investors, service providers, and suppliers. In practice, the sector lacks a regulatory framework that would encourage free competition. In a widely criticized concession process, TELCOR awarded radio spectrum in September 2009 to Russian firm Yota which has close ties to senior government officials. In January 2013, in yet another questionable concession process, TELCOR awarded a mobile phone concession to Chinese firm Xinwei.

Nicaragua is a member of UNCTAD's international network of transparent investment procedures: http://www.tramitesnicaragua.gob.ni/. Foreign and national investors can find detailed information on administrative procedures applicable to investment and income generating operations including the number of steps, name and contact details of the entities and persons in charge of procedures, required documents and conditions, costs, processing time and legal bases justifying the procedures. The site is available only in Spanish.

8. Efficient Capital Markets and Portfolio Investment

Existing policies allow the free flow of financial resources into the product and factor markets, as well as foreign currency convertibility. The Central Bank respects IMF Article VIII and does not impose any restrictions. Credit is allocated on market terms, and foreign investors are able to secure credit on the local market through a variety of credit instruments.

Money and Banking System, Hostile Takeovers

Among other services, local financial institutions offer commercial loans, credit lines, factoring, leasing, and bonded warehousing. BANPRO, Lafise BANCENTRO, and BAC constitute the largest financial institutions in Nicaragua, and collectively represent over 80 percent of the country's market share, and as of December 2015 had total assets worth $5.2 billion. BANCORP, a new bank owned by ALBANSIA and with close ties to the government, began accepting deposits in 2015.

The Foreign Investment Law allows foreign investors residing in the country to access local credit and local banks have no restriction in accepting property located abroad as collateral. However, many investors find lower cost financing and more product variety from offshore banks. Short-term government and Central Bank bonds, issued in Córdobas but indexed to the dollar, dominate Nicaragua's infant capital market. Foreign banks have acquired a presence in Nicaragua through the purchase of local banks.

Foreigners are allowed to open bank accounts as long as they are legal residents in the country.
Recent Central Bank data show that in 2015 the credit portfolio of Nicaraguan commercial

banks grew 23 percent. The banking system's loan portfolio totaled $4.36 billion as of December 2015. Interest rates on loans denominated in Córdobas averaged 12.45 percent; loans denominated in U.S. dollars averaged 9.49 percent.

The Superintendent of Banks and other Financial Institutions (SIBOIF) regulates banks, insurance companies, stock markets, and other financial intermediaries. SIBOIF requires that supervised entities provide audited financial statements, prepared according to international accounting standards, on a regular schedule. The Deposit Guarantee System Law (2005/551) established the Financial Institution Deposit Guarantee Fund (FOGADE) to guarantee bank deposits up to $10,000 per depositor, per institution.

CAFTA-DR allows U.S. financial services companies to establish subsidiaries, joint ventures, or bank branches in Nicaragua. The agreement also allows cross-border trade in financial services. Nicaragua has ratified its commitments under the 1997 World Trade Organization Financial Services Agreement. These commitments cover most banking services, including the acceptance of deposits, lending, leasing, the issuing of guarantees, and foreign exchange transactions. However, they do not cover the management of assets or securities. Nicaragua allows foreign banks to operate as 100%-owned subsidiaries or as branches

9. Competition from State-Owned Enterprises

President Ortega has used funds provided by Venezuela through the Bolivarian Alliance for the Americas (ALBA) to increase the role of the state and quasi-state actors in the economy. Through Petronic, Nicaragua's state-owned oil company, the government owns a 49% share in ALBA de Nicaragua (ALBANISA), the company that imports and monetizes Venezuelan petroleum products through the ALBA Energy Agreement. President Ortega and the Sandinista Party (FSLN) have used ALBANISA funds to purchase television and radio stations, hotels, cattle ranches, electricity generation plants and pharmaceutical laboratories. BANCORP, a new bank wholly owned by ALBANISA, began accepting deposits in July 2015. ALBANISA's large presence in the Nicaragua economy and its ties to the Nicaraguan government put companies trying to compete in industries dominated by ALBANISA or government-managed entities at a disadvantage.

The government owns and operates the National Sewer and Water Company (ENACAL), National Port Authority (EPN), National Lottery, and National Electricity Transmission Company (ENTRESA). Private sector investment is not permitted in these sectors. In sectors where competition is allowed, the government owns and operates the Nicaraguan Insurance Institute (INISER), Nicaraguan Electricity Company (ENEL), Las Mercedes Industrial Park, Nicaraguan Food Staple Company (ENABAS), the Nicaraguan Post Office, the International Airport Authority (EAAI), and the Nicaraguan Petroleum Company (Petronic). Through the Nicaraguan Social Security Institute (INSS), the government owns a pharmaceutical manufacturing company, Laboratorios Ramos.

Total assets of all SOEs in Nicaragua are unclear as not all SOEs have publicly available or audited accounts. There are few mechanisms to ensure the transparency and accountability of state business decisions. The U.S. Department of State's Fiscal Transparency report cites the need for Nicaragua to improve reporting on allocation to and from state-owned enterprises. Nicaragua is not a signatory to the WTO Agreement on Government Procurement.

OECD Guidelines on Corporate Governance of SOEs

The government does not have a centralized ownership entity that exercises ownership rights for each of the SOEs nor is there a specific ownership code. Governance of SOEs varies by company and is not always reported.

Sovereign Wealth Funds

N/A

10. Responsible Business Conduct

Many large businesses have active Corporate Social Responsibility (CSR) programs that include improvements to the workplace environment, business ethics, and community development projects. The Nicaraguan Union for CSR (UniRSE), which includes 102 companies, is working to create more awareness for CSR in Nicaragua. UniRSE organizes events and studies best practices throughout the region. Increasingly, both Nicaraguan and foreign businesses recognize that CSR and responsible business conduct (RBC) programs must go beyond compliance with environmental or labor law, but more work is needed in this area. The government of Nicaragua does not factor RBC policies or practices into its procurement decisions nor explicitly encourage generally accepted RBC principles.

11. Political Violence

In 2015, political, economic, and social demonstrations occurred frequently. A large number of demonstrations involved opposition to the proposed building of an interoceanic canal and demands for transparent elections. The motives for other demonstrations included workers/veterans rights, availability of public utilities, traffic and transportation concerns, and other national issues.

Most demonstrations begin peacefully, but the presence of counter-demonstrators or police can lead to an escalation in tension and violence. Typically, protests in Managua take place at major intersections or rotundas. Outside of the capital, they often take place in the form of road/highway blockages. Protests have included the use of gunfire, tear gas, fireworks, rock throwing, tire/vehicle burning, and road blocks.

Nicaragua is scheduled to hold Presidential and National Assembly elections in November 2016. There have already been reports of increased political protests and violence against political activists. This trend is likely to continue or escalate closer to the elections. The proposed inter-oceanic canal that would cross all of Nicaragua has led to over 60 protests along the route. Protestors have blocked roads, burned tires, and in one instance threatened to light a gas tanker truck on fire. In December 2014, clashes between protestors and police turned violent and media reported that 50 protestors were injured.

Police have often been slow to respond and reluctant to interfere in violent confrontations between rival political factions, and have been accused of facilitating attacks by ruling party thugs against protestors. Additionally, increased politically-motivated violence is being reported in the Northern Departments of the country, and crime rates in the Mining Triangle and the Caribbean Coast remain significantly higher than in other parts of the country.

12. Corruption

Public sector corruption remains a major challenge for U.S. firms operating in Nicaragua. Companies report that bribery of public officials, unlawful seizures, and arbitrary assessments by customs and tax authorities are common. In a 2016 survey of 2,500 Nicaraguan companies, one-third of all respondents reported arbitrariness and illegal actions by government offices that regulate property rights and business establishment.

The Penal Code (amended 2007/641) and the Special Law on Bribery and Crimes Against International Trade and Foreign Investment (2006/581) define corruption offenses and establish sanctions. Offering or accepting a bribe is a criminal act punishable by a fine and a minimum three years in prison. Legislation similar to the U.S. Foreign Corrupt Practices Act makes bribery by a Nicaraguan company of a foreign official a criminal act punishable by a minimum five years in prison. The Attorney General and the Controller General share responsibility for investigating and prosecuting corruption cases. The anticorruption provisions of CAFTA-DR require each participating government to ensure under its domestic law that bribery in matters affecting trade and investment is treated as a criminal offense or subject to comparable penalties.

U.S. Foreign Corrupt Practices Act: In 1977, the U.S. enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: http://www.justice.gov/criminal/fraud/

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Nicaragua ratified the United Nations Convention against Corruption (UNCAC) in 2006 and the Inter-American Convention Against Corruption in 1999. Nicaragua has a well-developed legislative framework criminalizing acts of corruption. The Penal Code and Law 581 cover all relevant aspects of corruption, including bribery, embezzlement, extortion, and money laundering. The country is not party to the OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions.

Resources to Report Corruption

Nicaragua's Supreme Audit Institution is the Contraloría General de la República de Nicaragua (CGR). The CGR can be reached at (505) 2265 2072 and more information is available at its website www.cgr.gob.ni.

13. Bilateral Investment Agreements

Bilateral Taxation Treaties

Nicaragua has signed and ratified bilateral investment treaties with Argentina, BLEU (Belgium-Luxembourg Economic Union), Chile, the Czech Republic, Denmark, Finland, France, Germany, Italy, the Netherlands, the Russian Federation, South Korea, Spain, Switzerland, Sweden, Taiwan, and the United Kingdom. CAFTA-DR and the EU Association Agreement also include an Investment Chapter. Nicaragua does not have a bilateral income tax treaty with the United States.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

The Nicaraguan government reported that in 2015, there were 257 companies operating in the free trade zones (FTZs) throughout Nicaragua and a total of 50 industrial parks, creating over 107,000 jobs. Most free zones are in Managua and approximately 40% belong to the textile and apparel sector.

In addition to export incentives and duty free capital imports granted by the Tax Concertation Law and the Temporary Admission Law for Export Promotion, the Free Trade Zones for Industrial Exports Decree (1991/46 and amendments) provides a 10-year income tax exemption for Nicaragua and foreign investments in FTZs. The National Free Trade Zone Commission of Nicaragua (CNFZ) administers the FTZ regime. The CNFZ requires a deposit to guarantee that final salaries and other expenses be paid if a company goes out of business.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) ($M USD)	2015	$12,237	2014	$11.81bn	World Bank
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	N/A	N/A	2014	$201.0m	BEA
Host country's FDI in the United States ($M USD, stock positions)	N/A	N/A	2014	$21	BEA
Total inbound stock of FDI as % host GDP	2015	10%	N/A	N/A	N/A

*Source: Central Bank of Nicaragua, Annual Report. Published annually March 31.

Table 3: Sources and Destination of FDI

Note: The IMF's CDIS site does not have the data available for Nicaragua, nor is such data available from publically-available Nicaraguan government sources

Table 4: Sources of Portfolio Investment

Note: The IMF's CDIS site does not have the data available for Nicaragua, nor is such data available from publically-available Nicaraguan government sources

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

Civil law system; Supreme Court may review administrative acts

International organization participation:

BCIE, CACM, CD, CELAC, FAO, G-77, IADB, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRCS, ILO, IMF, IMO, Interpol, IOC, IOM, IPU, ISO (correspondent), ITSO, ITU, ITUC (NGOs), LAES, LAIA, LAIA (observer), MIGA, NAM, OAS, OPANAL, OPCW, PCA, Petrocaribe, SICA, UN, UNCTAD, UNESCO, UNHCR, UNIDO, Union Latina, UNWTO, UPU, WCO, WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

There are no foreign exchange controls in Nicaragua

Treaty and non-treaty withholding tax rates

Nicaragua does not currently have any double taxation treaties with other counties

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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