U.S. DEPARTMENT OF STATE

DIPLOMACY IN ACTION

Executive Summary

While the Nicaraguan government seeks to increase economic growth in part by increasing foreign investment, the country's weak judicial system, land titling issues, and corruption create serious challenges for businesses operating in Nicaragua. To attract investors, Nicaragua offers investment incentives in many industries, including the renewable energy, mining, and tourism sectors. These include exemptions from import duties, property tax incentives, and in some cases, income tax relief. Another draw for investors is the Nicaraguan labor force, as unskilled labor is widely available and is relatively low-cost. Furthermore, Nicaragua has a comparatively young population, with 76% of the country under 39 years old.

However, potential investors should be aware of the political climate, as President Ortega's stated objective is to implement socialism in Nicaragua, which he defines as a mixed economy guided by Christian and socialist ideals. To achieve this balance between state and private sector participation in the economy he 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. This can put private companies trying to compete at a disadvantage. Furthermore, public sector corruption, including bribery of public officials, remains a major challenge for U.S. firms operating in Nicaragua.

Many foreign investors in Nicaragua experience difficulties defending their property rights. Property registries suffer from years of poor recordkeeping, making it difficult to establish a title history. 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.

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 or subject to political pressure. A commercial code and bankruptcy law exist, but both are outdated.

1. Openness To, and Restrictions Upon, Foreign 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 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.

Other major laws governing foreign investment include the Temporary Entry Law, which allows for the duty free import of machinery, equipment, raw materials, and supplies for companies exporting the majority of their production (see Performance Requirements and Incentives); the Export Processing Zone Law (see Foreign Trade Zones / Free Trade Zones); the Tax Equity Law (see Performance Requirements and Incentives); the Banking Law (see Conversion and Transfer Policies and Performance Requirements and Incentives); and a series of intellectual property laws (see Protection of Property Rights). The National Assembly provides Spanish-language texts of these and other Nicaraguan laws, which are available at http://www.asamblea.gob.ni/

PRONicaragua, the Nicaraguan investment promotion agency, has collaborated with the American Chamber of Commerce in Nicaragua (http://www.amcham.org.ni/) to create a Guide to Doing Business in Nicaragua, available at http://www.pronicaragua.org/en/resources-library/reports-and-publications/item/12-2012-doing-business.

TABLE 1: The following chart summarizes Nicaragua’s standing in several well-regarded indices and rankings.

Measure	**Year**	**Rank or value**	**Website Address**
TI Corruption Perceptions index	2013	(127 of 177)	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation’s Economic Freedom index	2013	(102 of 177)	http://www.heritage.org/index/ranking
World Bank’s Doing Business Report “Ease of Doing Business”	2013	(124 of 189)	http//doingbusiness.org/rankings

Global Innovation Index	2013	(115 of 142)	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	$1,650	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

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. Article 10.8 of 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. Foreigners may open bank accounts, but the process can be cumbersome and time consuming. The Superintendent of Banks and other Financial Institutions (SIBOIF) monitors financial transactions for illicit activity.

The official exchange rate is adjusted daily by the Nicaraguan Central Bank (BCN) according to a crawling peg that devaluates the Córdoba against the U.S. dollar at an annual rate of 5%. The official exchange rate as of December 31, 2013, was 25.33 Córdobas to one U.S. dollar. According to the BCN, the accumulated rate of inflation for 2013 was 5.67%.

3. Expropriation and Compensation

During the 1980s, the Sandinista government confiscated close to 28,000 properties in Nicaragua. Since 1990, thousands of U.S. citizens have filed claims against the government to have their property returned or receive compensation. As of January 31, 2014, the Nicaraguan government had resolved more than 4,900 U.S. citizen claims, and a total of 178 Embassy-registered U.S. claims remain. Since taking office in January 2007, the administration of President Ortega has resolved 381 claims, including 30 during the current waiver year.

The U.S. Embassy in Nicaragua works mainly with the Nicaraguan Attorney General’s office to facilitate the progress of U.S. citizens’ claims in the administrative process. The administrative process refers to registering the claim with the Attorney General’s office and obtaining compensation in the form of bonds or return of the property. A U.S. citizen with such a claim may contact ManaguaPropOffice@state.gov.

The USG remains concerned about land invasions and infringement of private property rights affecting U.S. citizens. The CAFTA-DR Investment Chapter prohibits expropriation unless for a public purpose. The government must pay prompt, adequate, and effective compensation.
See Protection of Property Rights for a description of other forms of land security problems affecting investors.

4. Dispute Settlement

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 or subject to political pressure. A commercial code and bankruptcy law exist, but both are outdated.

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 often at a disadvantage in disputes against nationals with political or personal connections. Some U.S. companies have been subject to legal procedures that violate international standards of due process and monetary judgments that have no parallel in Nicaragua's legal system. 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 Atlantic Autonomous Regions (RAAN and RAAS, respectively), 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 flexible. Local officials may act without effective central government oversight.

The Mediation and Arbitration Law (2005/540) establishes the legal framework for alternative dispute resolution. Nicaragua is a signatory of the New York Convention and the Inter-American Convention on International Commercial Arbitration. The American Chamber of Commerce of Nicaragua and the Nicaraguan Chamber of Commerce jointly operate a 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.

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. Proceedings under this mechanism are generally open to the public and documents are made publicly available.

5. Performance Requirements and Investment Incentives

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. Investors in the sector must register with the Directorate General for Natural Resources in the Ministry of Trade, Industry, and Development and with the Nicaraguan Fishing and Aquaculture Institute (INPESCA). 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 Forestry Conservation and Sustainable Development Law (2003/462) establishes preferential property tax rates and income tax exemptions, in addition to duty and tax exemptions, for inputs and capital goods used in forestry projects. Restrictions on the export of forest resources complicate investment in this industry (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.

6. Right to Private Ownership and Establishment

The government owns and operates the National Sewer and Water Company (ENACAL), National Port Authority (EPN), 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), and the Nicaraguan Petroleum Company (Petronic). Through the Nicaraguan Social Security Institute (INSS), the government owns a pharmaceutical manufacturing company, Laboratorios Ramos.

7. Protection of Property Rights

Many foreign investors in Nicaragua experience difficulties defending their property rights. The expropriation of 28,000 properties in Nicaragua 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. The Embassy is working with several U.S. citizens land owners to press the Nicaraguan government to protect their right to due process.

Those interested in purchasing property in Nicaragua should seek experienced legal counsel. 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 (http://www.pronicaragua.org/index.php?lang=en).

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 no secondary market for mortgages. See Efficient Capital Markets and Portfolio Investment for more information on the financial sector.

Intellectual Property Rights

CAFTA-DR made Nicaraguan 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 has strengthened its legal framework to 1) provide state-of-the-art 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. The U.S. has expressed concern to the Nicaraguan government about inadequate IPR enforcement.

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/.

Embassy point of contact: Lilliam Baez BaezLAU@state.gov

Local lawyers list:
http://nicaragua.usembassy.gov/attorneys_registered_at_embassy_managua.html

8. 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 (see Dispute Settlement).

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 Special Law on Inventory of Select Materials for Infrastructure (2010/730) allows the Ministry of Transportation and Infrastructure to directly negotiate the purchase of materials or land from land owners so as to lower the cost of road projects. It also allows the government to declare eminent domain when necessary. Other entities, such as the Ministry of Energy and Mines and the Ministry of Natural Resources and the Environment, may issue permits and licenses for the use of those public domain materials that are related to energy, mines, and natural resources.

The Government Procurement Law (amended 2010/737) establishes safeguards to encourage open competition among suppliers bidding on government contracts. The law states that government purchase of goods and services must be openly competed. All government purchases must be planned and approved by procurement committees within each public entity. The law allows for foreign contractors to bid on projects alongside locally registered companies. While foreign companies do not have to register locally in order to take part in the bidding process, they must present documentation from their home countries in order to prove that they are qualified bidders. If a foreign company wins a bid, it will need to register with the Nicaraguan government. 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. In 2013, the Nicaraguan government spent approximately $493 million on contracted projects and purchases.

The General Law for Insurance, Reinsurance, and Bonds (2010/733) provides a legal framework for the regulation of the insurance industry and all related services, such as, but not limited to, foreign insurance companies with branches established in Nicaragua, insurance subsidiaries, reinsurance entities, warranty services, and insurance brokers. The Superintendent of Banks and Financial Institutions is responsible for authorizing, regulating and overseeing all the companies and individuals that are involved in the insurance sector. Any foreign insurance company that wishes to establish branches in Nicaragua must comply with this law and request authorization from the Superintendent before establishing a presence. The Superintendent may only approve such requests from insurance companies that have been established in their country of origin for more than five years and when there are bilateral cooperation agreements among Nicaraguan insurance authorities and corresponding authorities from the country of origin. All insurance services rendered in Nicaragua and regulated by this law must comply with antitrust principles. The law prohibits private agreements between two or more companies of this sector that may negatively affect the basis of this principle. Insurance companies, brokers, subsidiaries and all related agencies must render a fee equivalent to a percentage of their commissions to the Superintendent's Office, in virtue of contributing to the annual budget of this government office.

The Consumer Defense Law (1994/182) includes a consumer bill of rights that establishes minimum standards for product safety and quality as well as for truth in marketing. Under this law, the Consumer Defense Directorate of the Ministry of Trade, Development, and Commerce (MIFIC) may investigate businesses and levy fines. The Ministry of Public Health, Directorate General of Sanitary Regulation, regulates the sale of food and drugs (including cosmetics), while the Ministry of Agriculture and Forestry is responsible for plant and animal health issues (see Chapter 5 of the Country Commercial Guide: Trade Regulations, Customs, and Standards, for further information on food, drug, and consumer product regulation). Government resources to enforce these public health and safety regulations are limited, especially in informal markets.

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). MHCP's Directorate General of Customs collects customs duties (see Chapter 5 of the Country Commercial Guide: Trade Regulations, Customs, and Standards for further information on customs procedures). 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 wrongly classify goods so as to boost tariff revenue. The Embassy has received numerous 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. The Law on Crimes against the Environment and Natural Resources (2005/559) includes additional 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. It recognizes beachfront property rights within this area, but gives municipalities zoning authority. The law establishes a Commission for Coastal Zone Development (CDZC) to provide technical assistance and advice to municipalities on coastal development and management, and on concessions for use of public land. 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. Article 74 of this law was amended (2005/525), stating that non-metallic mining concessions must pay: for the right of extraction, for the surface rights of the mining concession, and income taxes. Concession holders cannot be compelled to pay the state for any other services and taxes.

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 (Law 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 (612/2007) 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. Investment in transmission and distribution is limited by law (see Right to Private Ownership and Establishment). 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.

Investment in renewable energy in Nicaragua is growing, attracting an estimated $1.7 billion in investment from 2006-2013 for wind, solar, geothermal, biomass, and hydroelectric projects. A number of new renewable energy projects are either under construction or being planned. Climatescope2013 named Nicaragua the third-best country in Latin America to invest in renewable energy trailing only Brazil and Chile. Through the Sustainable Electrification and Renewable Energy National Program (PNESER), Nicaragua is investing approximately $425 million to expand and improve its transmission and distribution capabilities. The Inter-American Development Bank (IDB) has disbursed three loans totaling $87.5 million for PNESER. Nicaragua has the highest electricity loss rate (approximately 21%) in Central America due to theft and technical inefficiencies in the electric grid. That loss rate has improved from 26% in 2008, but more investment in the grid is needed to bring the loss rate to an acceptable level of 8-9%.

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. Enitel, the former state telephone company now owned by a Mexican investor and operating under the name Claro, operates all fixed lines and competes in the mobile phone, internet and cable television markets. In 2006, the Supreme Court blocked an effort by the Nicaraguan Institute for Telecommunications and Postal Service (TELCOR), which is the telecommunications regulator, to obligate Enitel-Claro to make available its telecommunications infrastructure to other fixed and mobile phone operators. Spanish owned Movistar is the second mobile phone operator in the country, and competes against Claro. 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 the U.N. Conference on Trade and Development's international network of transparent investment procedures: http://www.tramitesnicaragua.gob.ni/ (Spanish language only). 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.

9. Efficient Capital Markets and Portfolio Investment

Among other services, local financial institutions offer commercial loans, credit lines, factoring, leasing, and bonded warehousing. BANPRO, Lafise, and BAC constitute the largest financial institutions in Nicaragua, competing also with five other much smaller banks. Nicaraguan banks remain highly conservative in their lending practices, and the vast majority of their portfolios are centered in Managua and a few select agricultural regions. For most Nicaraguans mired in poverty, the prospect of obtaining a loan from these institutions remains out of reach. The Foreign Investment Law allows foreign investors to access local credit. 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. U.S. and other foreign banks have acquired a presence in Nicaragua through the purchase of local banks.

Recent Central Bank data show that in 2013 the credit portfolio of Nicaraguan commercial banks grew by 21% compared to 2012. Credit growth was driven by personal and mortgage loans. Consumer credit in the form of personal loans was the fastest growing segment, increasing 37% compared to last year. The banking system's loan portfolio totaled \$3.34 billion as of December 2013. Interest rates on loans denominated in Córdobas averaged 13.78%; loans denominated in U.S. dollars averaged 9.04%.

Bank deposits increased by 14% in 2013, a marked increase compared to the modest 5.5% growth of 2012. As of December 2013, total deposits in the banking system had reached $3.9 billion, of which $2.9 billion was held in foreign currency (U.S. dollars and Euros). Interest rates on savings accounts averaged 1.37% in December 2013 for accounts denominated in Córdobas and 1.99% for accounts denominated in U.S. dollars.

The Superintendent of Banks and other Financial Institutions Law (amended 2006/576) and the General Law on Banks, Financial Institutions, Nonbank Financial Intermediaries, and Financial Conglomerates (2005/561) establish the legal framework for financial sector regulation. 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.

Microfinance institutions are an important source of capital for small businesses in Nicaragua. The twenty-three members of the Nicaraguan Association of Microfinance Institutions manage loan portfolios of approximately $177 million. In July 2008, President Ortega called for Nicaraguans to halt payments on their microfinance loans and demand renegotiation of "usurious" interest rates. He reversed his position in January 2009, but many microfinance institutions report that delinquency rates increased significantly in the interim. In June 2011, the National Assembly passed legislation designed to regulate better the microfinance sector, in an attempt to encourage renewed investment. The legislation created a new regulatory body, CONAMI, which started registering microfinance institutions in 2012.

10. Competition from State-Owned Enterprises

President Ortega's stated objective is to implement socialism in Nicaragua, which he further defines as a mixed economy or “21st Century Socialism”, guided by Christian and socialist ideals. To achieve this balance between state and private sector participation in the economy, many feared that Ortega would employ the methods of the 1980s: nationalization and price controls. Instead, he 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. The state-owned Venezuelan Petroleum Company (PDVSA) owns the remaining 51% share of ALBANISA, which sets aside 50% of oil sales for use in Nicaragua, and has provided over $3.0 billion to the Nicaraguan government through an agreement signed by President Ortega in 2007. According to the Nicaraguan Central Bank, Venezuela provided Nicaragua with over $712 million under this scheme in 2012, and $314 million during the first six months of 2013. President Ortega and the FSLN have used ALBANISA to purchase television and radio stations, hotels, cattle ranches, electricity generation plants and pharmaceutical laboratories.

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 entities at a disadvantage. For example, Nicaraguan Petrol Distributor (DNP) is a state business whose stake in ALBANISA allows it to receive and distribute Venezuelan gasoline through its more than sixty gas stations. Since 2010, DNP has won at least three 'no competition' contracts with Nicaraguan government ministries leading to allegations of impropriety.

11. Corporate Social Responsibility

Many large businesses have active Corporate Social Responsibility (CSR) programs that include improvements to the workplace environment, business ethics, and community developing projects. The Nicaraguan Union for CSR (UniRSE), which includes 66 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 programs must go beyond compliance with environmental or labor law, but more work is needed in this area.

12. Political Violence

There were some cases of political violence surrounding the 2011 national election and the 2012 municipal elections, including clashes between police and anti-FSLN protestors and violence by both pro-FSLN and anti-FSLN groups. In 2013, a senior citizen protest at the Nicaraguan Institute for Social Security (INSS) turned violent, with clashes between police and protesters, as well as between protesters and pro-government demonstrators. Numerous allegations of police abuse, including beatings and excessive force, were reported. The Nicaraguan National Police (NNP) arrested at least 15 individuals without providing an official explanation for their detention. Despite video and photographic evidence of NNP misconduct, there were no official investigations and no reported reprimands or dismissals of NNP members by year's end. Certain community members in northern towns, alleged repeated government interrogations and searches without cause, related to supposed support for alleged armed groups, while government officials claimed they were confronting common criminals. In March 2014, Nicaragua held territorial elections on the Atlantic Coast that generated politically-motivated violence including the death of one opposition supporter.

13. Corruption

Public sector corruption, including bribery of public officials, remains a major challenge for U.S. firms operating in Nicaragua. 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

It is U.S. government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. 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.**

UN Convention: The UN Anticorruption Convention entered into force on December 14, 2005, and there are 170 parties to it as of November 2013 (see https://www.unodc.org/unodc/en/treaties/CAC/signatories.html). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offenses to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Anti-bribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international, cooperation, and asset recovery. Nicaragua ratified the UN Anticorruption Convention in 2006.

OAS Convention: In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention Against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventative measures against corruption provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 33 parties (see http://www.oas.org/juridico/english/Sigs/b-58.html). Nicaragua ratified the OAS Convention Against Corruption.

Free Trade Agreements: While it is the U.S. government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: http://www.ustr.gov/trade-agreements/free-trade-agreements. 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.

Nicaragua has free trade agreements with Mexico, Taiwan, Panama, and Chile and is party to CAFTA-DR and CA-Mexico. Nicaragua is party to the European Union-Central America Association Agreement, which entered into force on August 1, 2013. As of March 2014, Nicaragua is negotiating free trade agreements with Canada and the Caribbean Community and Common Market (CARICOM). On March 13, 2014 signed a partial trade agreement with Cuba. Nicaragua also has partial trade agreements that include both preferential and non-tariff preferential benefits, as well as economic assistance with Colombia and Venezuela. Nicaragua is currently negotiating a "People's Trade Treaty of ALBA".

Local Laws: U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department's U.S. and Foreign Commercial Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

Assistance for U.S. Businesses: The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting due diligence as part of the company's overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at www.trade.gov/cs.

The Department of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report a Trade Barrier" Website at tcc.export.gov/Report_a_Barrier/index.asp.

Guidance on the U.S. FCPA: The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the anti-bribery provisions of the FCPA regarding and proposed business conduct. The details to the opinion procedure are available on DOJ's Fraud Section Website at www.justice.gov/criminal/fraud/fcpa. Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments regarding the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S.

Department of Commerce, Website, at http://www.ogc.doc.gov/trans_anti_bribery.html. More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

14. Bilateral Investment Agreements

Nicaragua has signed and ratified bilateral investment treaties with Argentina, Chile, the Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Germany, Italy, the Netherlands, South Korea, Spain, Switzerland, Sweden, Taiwan, and the United Kingdom. CAFTA-DR also includes an Investment Chapter.

15. OPIC and Other Investment Insurance Programs

The U.S. Overseas Private Investment Corporation (OPIC) offers financing and insurance against political risk, expropriation, and inconvertibility to U.S. investments in Nicaragua. A 2004 Investment Incentive Agreement between Nicaragua and the United States expanded the range of OPIC programs available to U.S. investors in Nicaragua and streamlined investment application procedures. Nicaragua is a member of the World Bank's Multilateral Investment Guarantee Agency.

16. Labor

In 2012, the Nicaraguan government estimated Nicaragua's labor force at 3.17 million, of which 2.99 million (94%) are reportedly employed. Of those employed, 31.4% work in agriculture, fisheries, and forestry, 18% in manufacturing, and 50% in services. Although unemployment is reported at only 5.9%, some nongovernment sources estimate informal employment at up to 65-70% of the total work force, and underemployment is common. Unskilled labor is widely available and relatively inexpensive, but in rural areas outward migration has resulted in labor shortages during harvest season. In 2009, the World Bank reported that 42.5% of Nicaraguans live below the poverty line.

Nicaragua has ratified all eight of the International Labor Organization's core labor conventions. The Nicaraguan Constitution, Labor Code (1995/185 and amendments), General Law on Labor Health and Safety (2007/618), and several other laws establish minimum standards for labor conditions and provide the legal framework for relations between employers and their employees. The Nicaraguan Constitution bans forced labor, slavery, and indentured servitude.

The constitution also specifies that a standard work day be no more than eight hours and a standard work week no more than 48 across six days. The minimum age for employment is 14, and teenage workers between 14 and 16 must have their parents' consent in order to be employed, can only work up to six hours, and are limited to no more than 30 hours per week. The law also prohibits certain dangerous or hazardous work for workers under 18. Labor unions complain that the Ministry of Labor lacks adequate staff and resources to fully enforce these provisions.

Business, government, and labor negotiate a statutory minimum wage that the National Assembly must subsequently confirm. Each sector of the economy has a different minimum wage, which must be reviewed every six months. In March 2014, the government approved a minimum wage increase of around 10% for most sectors. The free trade zones, however, increased the minimum wage by 8% in January 2014. In general, enforcement of the minimum wage takes place only within the formal sector of the economy. While the law mandates premium pay for overtime and prohibits excessive compulsory overtime, the government does not always effectively enforce these requirements.

The labor code sets forth significant benefits that increase business costs. For example, at year-end, employers must pay the equivalent of an extra month's salary. Other benefits include maternity leave, medical care, death and survivor's benefits, pensions, and workers compensation for disability. Upon termination of an employee, the employer must pay a month's salary for each year worked, up to five months' salary. Some business groups say that the five-month limit provides workers with an incentive to seek dismissal once they have completed five years with a firm.

In October 2012, the National Assembly passed a revised Procedural Labor and Social Security Code, which includes significant changes to the labor justice system. The law, which came into effect in May 2013, introduces oral testimony, simplifies judicial proceedings, creates specialized labor judges, sets a timeline within which cases must be resolved, and establishes a minimum value for a labor dispute to move to court. The reforms aim to streamline the filing process while reducing the small claims burden on labor courts. Nicaraguan law grants public and private sector workers, except those in the military and police, the right to organize. Workers need not advise the employer or the Ministry of Labor of their intention to do so. In general, workers exercise the right to organize unhindered. However, burdensome and lengthy labor code conciliation procedures sometimes impede workers' ability to call strikes. During a strike employers cannot hire replacement workers. However, unions allege that this practice is common.

If a strike continues for 30 days without resolution, Nicaragua's Ministry of Labor (MITRAB) has the authority to suspend the strike and send the matter to arbitration. In the past, MITRAB has declared strikes illegal, even when workers followed legal strike procedures. The International Labor Organization continued to note that this provision limits the right to strike and called for the law to be amended. Labor activists and NGOs alleged that employers routinely violated collective bargaining agreements and labor laws with impunity. Although employers are legally required to reinstate workers fired for union activity, formal reinstatement requires a judicial order which can be difficult to obtain because of a lengthy appeals process. In practice, employers often do not reinstate workers because the law is poorly enforced. Employers may dismiss any employee, including union organizers, by agreeing to pay doubly the legally mandated severance pay.

The law provides for the right to bargain collectively and for several unions, each with different membership, to coexist at any one enterprise. Employers may sign separate collective bargaining agreements with each union. Independent labor leaders complain that employers often violate collective bargaining agreements and Nicaraguan labor laws. They also complain that employers use company unions to disrupt the organization of independent unions. Sporadic strikes have occurred, especially in the transportation sector. Division among labor unions along political lines complicates the resolution of these strikes and other labor issues.

17. Foreign Trade Zones/Free Ports

The Nicaraguan government reported that as of November 2013, there were 174 companies operating in the free trade zones (FTZs) throughout Nicaragua and a total of 45 industrial parks, creating over 100,000 jobs. Most free zones are in Managua and approximately 60% belong to the textile and apparel sector.

In addition to export incentives and duty free capital imports granted by the Tax Equity Law of Temporary Admission 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.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy

	Nicaraguan Central Bank	USG or international statistical source	USG or international Source of data (Source of Data: BEA; IMF; Eurostat; UNCTAD, Other)

Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (*Millions U.S. Dollars)*	2012	$10.51 billion	2012	$10.51 billion	http://www.worldbank.org/en/country
Foreign Direct Investment	ProNicaragua (the Nicaraguan Investment Promotion Agency)		USG or international statistical source		USG or international Source of data: BEA
U.S. FDI in partner country (*Millions U.S. Dollars, stock positions)*	2012	$121 million	2012	$219 million	www.bea.gov

* Provide sources of host country statistical data used.

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