

NICARAGUA

In 1998, the U.S. trade deficit with Nicaragua was \$117 million, a decrease of \$33 million from 1997. U.S. merchandise exports to Nicaragua were \$337 million in 1998, an increase of \$47 million (16.4 percent) over 1997. Nicaragua was the United States 78th largest export market in 1998. U.S. imports from Nicaragua were \$453 million in 1998, an increase of \$14 million (3.2 percent) from 1997. The United States is Nicaragua's largest trading partner. The stock of U.S. foreign direct investment in Nicaragua was \$130 million in 1997, up 62.5 percent from 1996.

IMPORT POLICIES

Tariffs

Nicaragua's tax reform law of May 1997 made sweeping changes in the system of import taxes, reestablishing a schedule of progressive tariff reductions through the year 2002. The tax reform banned the establishment of almost all the non-trade barriers on imports. It also repealed, effective July 1998, the 1980 "law of agents, representatives and distributors of foreign products." That law made it difficult for foreign firms to terminate local distributors. Importers of many items face a total import tax burden of 15 to 45 percent. Nicaragua imposes regular import duties (DAI) of 15 percent on final consumption goods and 10 percent on intermediate goods (there is no DAI on raw materials and capital goods produced outside Central America, but a 5 percent DAI applies to raw materials and capital goods from any Central American country). The Government of Nicaragua (GON) levies a temporary protective tariff (ATP) of 5 to 10 percent on about 900 items. The maximum combined DAI and ATP rate is 25 percent. A luxury tax is levied through the specific consumption tax (IEC) on 609 items, which is generally lower than 15 percent. In addition, most items, except agricultural inputs, are subject to a 15 percent value-added tax (IGV).

There are instances when Nicaraguan Customs has assessed tariffs based on a reference price, which is higher than the actual value of goods as invoiced. This practice - which should be phased out by September 2000 under the Uruguay Round - has had the effect of diminishing the tariff relief intended by the reforms in certain cases.

Members of the Central American Common Market (CACM) are working toward the full implementation of a common external tariff (CET) ranging between 0 and 15 percent for most products. With a few exceptions, there are no regular import duties (DAI) on products traded among CACM members. In its 1997 tax reform law the GON adopted a tariff reduction schedule beyond that called for by CACM agreements. In July 1998, Nicaragua ratified a free-trade agreement with Mexico, which by the year 2000 will remove most regular import duties (DAI) on Nicaraguan exports to Mexico and do the same for Mexican exports to Nicaragua.

Nicaragua's domestic tax and tariff rates are higher on cars with large engines. This has the effect of discriminating against U.S. automobiles, which typically have larger engines than equivalent competitors from other countries. In January 1998, the Nicaraguan Government sent draft legislation to the National Assembly to reduce the tariff differential between cars with large and small engines; however, the legislation languished the entire year in the Assembly.

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Agricultural Price Bands

Nicaragua's 1997 tax reform law eliminated the price-band mechanism. Tariffs for products previously subject to the price band (yellow corn, sorghum, rice, and soybeans) now range from 15 to 30 percent and are set to drop to 5 and 10 percent by 2000, or 2001 in the case of rice.

GOVERNMENT PROCUREMENT

The 1981 Law of Administrative Contracting by the State, Decentralized/Autonomous Agencies, and Municipalities sets out clear guidelines for government procurement. However, in practice, many government agencies and state-owned companies engage in direct purchasing outside of the legal framework.

LACK OF INTELLECTUAL PROPERTY PROTECTION

Bilateral Agreement

On January 7, 1998, Nicaragua signed a Bilateral Intellectual Property Rights Agreement with the United States -- the first such agreement in Central America and only the fourth in the hemisphere. The agreement, which had been under negotiation for four years, covers copyrights, patents, trademarks, semiconductor layout designs, encrypted program-carrying satellite signals, trade secrets, and industrial designs. The agreement addresses criminal and civil penalties for infractions and provides a level of protection that exceeds commitments in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The agreement calls for full implementation by mid-1999. At the February 1999 meeting of the U.S.-Nicaragua Trade and Investment Council, the GON presented a schedule for passage of necessary implementing legislation.

Copyrights

Piracy of video recordings, unauthorized video and sound recordings, broadcast theft, and piracy of U.S. satellite signals by the local cable television operators are widespread. The current law, which dates from 1904, does not explicitly protect computer software, which contributes to endemic piracy of these products. A draft copyright law languished in the previous National Assembly but the government pledges to redouble its efforts in 1999. A report prepared by the International Intellectual Property Alliance (IIPA) estimated that losses in Nicaragua due to copyright infringements cost U.S. firms \$5.7 million in 1998.

Patents

The current patent law, which dates to 1899, fails to meet international standards for term of protection and for subject matter subject to patentability. Patent protection is limited to short patent terms (10 years). In 1996, the National Assembly ratified the Paris Convention for the Protection of Industrial Property. In April 1997, Nicaragua approved the technical part of the Central American Convention in Industrial Property (inventions and industrial design). However, this is not yet in force, pending approval by other countries. New patent legislation is under consideration, but its prospects for passage are uncertain.

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Trademarks

Nicaragua's trademark law currently provides inadequate protection for trademarks, especially well known marks. However, in November 1994, the Central American Convention for the Protection of Industrial Property, of which Nicaragua is a signatory, was revised. The Convention has been signed by the Nicaraguan executive branch, but has not yet been ratified by the National Assembly. The Convention is intended to ensure compatibility with the Paris Convention and Uruguay Round TRIPs provisions.

SERVICES BARRIERS

Nicaragua is overdue in providing to the WTO an acceptance of the Fifth Protocol to the General Agreement on Trade in Services, which is necessary to bring its commitments on financial services into effect.

INVESTMENT BARRIERS

Sandinista-era cases of confiscated U.S. citizen-owned investments or properties continue to create questions about the rule of law and respect for private property in Nicaragua. While the Aleman Administration has made marked progress in increasing the rate of solutions, several valuable properties remain in the hands of the government awaiting fair compensation or return to the rightful owners. There are two cases in which the courts have ruled in favor of U.S. property holders and the Nicaraguan Government has made no compensation to honor the verdict. The government continues to offer only bonds as means of compensation, but has not implemented other forms of restitution, such as the exchange of government-held property or other assets of an equivalent value. The United States will press Nicaragua to devise different forms of compensation.

In order to receive the benefit of the 1991 Foreign Investment Law -- which provides guaranteed repatriation of profits and repatriation of original capital three years after the initial investment -- an interagency foreign investment committee must approve investments. These approvals can be time-consuming and contain criteria -- e.g., approval by the government's environmental agency -- that lack clear definition. Investments may be made without foreign investment committee approval, but such investments do not enjoy repatriation guarantees. The government has announced plans to review the adequacy of the investment law with the objective of removing any bias against foreign investment. The resolution of commercial and investment disputes is unpredictable. The legal system is cumbersome, and the enforcement of judicial rulings is uncertain and sometimes subject to non-judicial considerations.

In July 1995, the Governments of Nicaragua and the United States concluded the U.S.-Nicaragua Bilateral Investment Treaty (BIT) which was designed to improve the investment climate by recognizing intellectual property rights, and by guaranteeing the repatriation of capital and compensation for damages. Nicaragua's National Assembly ratified the BIT in June 1996. The treaty has not yet been submitted to the U.S. Senate for ratification; the U.S. has linked its submission to Nicaraguan progress in resolving U.S. citizen property claims.

ELECTRONIC COMMERCE

There are no known tariff or non-tariff measures, burdensome or discriminatory regulations, or discriminatory taxation affecting electronic commerce.

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