

NICARAGUA

TRADE SUMMARY

In 2000, the U.S. trade deficit with Nicaragua was \$211 million, an increase of \$92 million from the U.S. trade deficit of \$119 million in 1999. U.S. merchandise exports to Nicaragua were \$379 million, an increase of \$5 million (1.4 percent) from the level of U.S. exports to Nicaragua in 1999. Nicaragua was the United States' 70th largest export market in 2000. U.S. imports from Nicaragua were \$590 million in 2000, an increase of \$97 million (19.7 percent) from the level of imports in 1999.

The stock of U.S. Foreign Direct Investment (FDI) in Nicaragua in 1999 amounted to \$167 million, an increase of 6.4 percent from the level of U.S. FDI in 1998.

IMPORT POLICIES

Due to a series of economic and tax reform measures launched in 1997, Nicaragua is in the process of progressively reducing import taxes through the year 2002. This reform process also has removed many non-tariff barriers on imports; eliminated the discretion of government officials to waive the application of tariffs; and repealed restrictive laws on agents, representatives or distributors of foreign firms.

Tariffs

Nicaragua is a member of the Central American Common Market (CACM), which also includes Costa Rica, El Salvador, Guatemala, and Honduras. There are no duties for products traded among CACM members, although exceptions exist, including for certain agricultural products. In 1995, the members of the CACM agreed to reduce and harmonize the common external tariff (CET) at zero to 15 percent, but allowed each member to determine the timing of the reductions. In general, Nicaragua imposes regular import duties of 10 percent on final consumption goods, 5 percent on intermediate goods, and zero percent on raw materials and capital goods.

In November 1999, the Nicaraguan Government issued a decree that raised existing tariffs on rice, yellow corn and sorghum to as high as 45 percent, although still within Nicaragua's WTO bound rates. This decree has been renewed every 30 days. The Government has said it will lower these tariffs once world prices for these commodities rebound. In 2000, the Government increased the tariff on milled rice to 55 percent.

A temporary protection tariff (ATP) of 5 percent to 10 percent (above the regular tariff) is levied on some 900 items. The maximum rate of the combined import tariff and ATP is 20 percent. A luxury tax, generally lower than 15 percent, is levied through the specific consumption tax (IEC) on 609 items. The regular import tariff and ATP are based on the CIF value. The IEC for domestically produced goods is based on the manufacturer's price, and for imported goods on the CIF value, except for alcoholic beverages and tobacco products, in which case the IEC is assessed on the price charged to the retailer.

Import duties on so-called "fiscal" goods (e.g., tobacco, soft drinks, and alcoholic beverages) remain particularly high. In addition, some protected agricultural products such as corn and rice face tariffs of up to 55 percent, and chicken parts are levied up to 180 percent tariffs. Cars with large engines (greater than 4000 cc) face an IEC tax of 25 percent. Vehicles with smaller engines are only charged up to three percent IEC tax. Importers of many items face a total import tax burden of 15 to 45 percent.

In April 2000, the National Assembly again modified the tax law to reduce nominal IEC taxes and to extend tax benefits enjoyed by cooperatives and the small business, agricultural, aquaculture and fishing sectors. This reform lowered the IEC levied on alcoholic beverages to between 34 to 43 percent (down from 40 to 50 percent), and the IEC on cigars and cigarettes decreased from 59 to 61 percent to 40 percent. The IEC tax on cigars and cigarettes will decrease by one percent per year until the tax reaches 38 percent. The IEC tax on rums and liquor will decline by one percent until it

NICARAGUA

reaches 35 percent. The tax on beer will decrease annually by one percent as well, until it reaches 32 percent. The benefits of this tax cut, however, were minimal for imported alcoholic beverages and tobacco products, since the tax will now be based on the sales price to the retailer, rather than on the CIF price.

In December 1999, Nicaragua imposed a punitive 35 percent tariff on all goods from Honduras and Colombia as a retaliatory measure for Honduras' signing a maritime border delineation agreement with Colombia, which Nicaragua claims infringes on its territory.

Non-Tariff Measures

U.S. exporters have expressed concern about arbitrary customs procedures and valuations. Tariffs and import taxes for most used goods are not assessed on a CIF/bill of lading basis, but rather on an arbitrary reference price determined by Customs at the time of entry, which can be significantly higher than the actual price paid. The Government had committed itself to abide by the WTO Customs Valuation Agreement by September 2000; however, Nicaragua has not yet complied with the new customs procedures. Nicaragua withdrew a request for a second WTO extension to implement the WTO Customs Valuation Agreement and has pledged to implement it by the first quarter of 2001. Nicaragua has a temporary WTO exception to use reference prices for a few items, such as used clothes, tires, car parts, and automobiles.

Nicaragua's 1997 Tax Reform Law eliminated the price-band customs valuation mechanism.

GOVERNMENT PROCUREMENT

Nicaragua's new law on government procurement went into effect in January 2000. It provides for non-discrimination among suppliers. Nicaragua is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

On January 7, 1998, Nicaragua signed a bilateral Intellectual Property Rights Agreement with the United States – the first such agreement in Central America. The Agreement covers copyrights, patents, trademarks, semiconductor layout designs, encrypted program-carrying satellite signals, trade secrets, and industrial designs. It addresses criminal and civil penalties for infractions and appears to provide a level of protection that exceeds commitments in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The Agreement called for full implementation by mid-1999 – a deadline Nicaragua was unable to meet. However, by the end of 2000, the Nicaraguan National Assembly had passed updated laws in all areas covered by the agreement, with the exception of trademarks.

Copyrights

In July 1999, the National Assembly passed copyright legislation that has strengthened the legal basis for copyright protection. In 2000, sound and video pirates failed to get the National Assembly to approve additional time to sell their stocks of pirated goods; however, illegal copies are still sold on the streets. A complementary law on television programming carriers was passed in November 1999. Nicaragua became a signatory to the Berne Convention in 1999. Nicaragua is also a signatory to the following copyright conventions: the Mexico Convention on Literary and Artistic Copyrights; the Buenos Aires Convention on Literary and Artistic Copyrights; the Inter-American Copyright Convention; the Universal Copyright Convention (the 1952 Geneva Convention and the 1971 Paris Convention); and the Brussels Satellite Convention. Despite recent progress in strengthening the regulatory framework for intellectual property protection, piracy of sound and video recordings, as well as theft of U.S.

NICARAGUA

satellite signals and broadcasts, remains a problem in Nicaragua.

Patents

Nicaragua's National Assembly passed a new Patent Law (Law on Invention Patents, Utility Models and Industrial Design) on September 19, 2000. It entered into force on November 25, 2000. The length of patent protection is 20 years, during which the inventor pays annual fees. Lack of payment voids such patents. This law appears to be consistent with WTO requirements. In February 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 on Industrial Property (Inventions and Industrial Designs), although this has not yet come into effect. In 1999, the National Assembly approved a new Law for the Protection of Plant Varieties which conforms to the Convention of the International Union for the Protection of Plant Varieties (UPOV, 1978). Nicaragua has acceded to UPOV.

Trademarks

Trademark infringement remains a problem area. Current Nicaraguan procedures allow individuals to register a trademark without restriction, at a low fee, for a period of 15 years. Nicaragua signed and ratified the Central American Convention for the Protection of Industrial Property and its Protocol of Modification (trademarks and distinctive signs). However, Nicaragua has not ratified the amendment to the Protocol, and neither the Convention nor the Protocol will take effect until the other Central American countries sign it. The Convention is intended to ensure compatibility with the Paris Convention and TRIPS provisions. An updated draft law on trademarks is being considered by the National Assembly.

SERVICES BARRIERS

Nicaragua has ratified its commitments under the 1997 WTO Financial Services Agreement. Nicaragua has WTO commitments covering most banking services (acceptance of deposits, lending, leasing, guarantees, and foreign exchange services), but it has no commitments in securities, asset management, or other (non-insurance) financial services. While Nicaragua allows foreign banks to operate either as 100 percent owned subsidiaries or as branches, none were present in the country during 2000.

INVESTMENT BARRIERS

Sandinista-era confiscation cases of 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 Government has made progress, valuable properties remain in the hands of the government or private parties awaiting fair compensation or return to the rightful owners. Property claimants, after more than a two year suspension of property-related lawsuits, can now access the new property tribunals for the return of, or compensation for, their properties. The Government continues to offer only bonds as a means of compensation (which currently sell for about 20 percent of face value). Claimants may decide whether to pursue the return of property or compensation through such bonds. The United States continues to press Nicaragua to improve its resolution of expropriation cases and to take measures to increase the value of the compensation bonds.

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, investments must be approved by an interagency Foreign Investment Committee. These approvals can be time-consuming and contain criteria (e.g., approval by the Nicaraguan Environmental Agency) that lack clear definition. Investments may be made without Foreign Investment

NICARAGUA

Committee approval, but such investments do not enjoy repatriation guarantees. However, there are no foreign exchange controls currently imposed in Nicaragua to prevent the free exchange of currency and repatriation of profits.

The resolution of commercial and investment disputes is still 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). Nicaragua's National Assembly ratified the BIT in June 1996. The BIT awaits advice and consent from the U.S. Senate.