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Nicaragua: Changes Under the Chamorro Government and U.S. Concerns

(name redacted)

Analyst in Latin American Affairs
Foreign Affairs and National Defense Division

Summary

National reconciliation was the primary goal of President Violeta Barrios de Chamorro's administration from 1990-1996. Yet many critics, both in Nicaragua and in the U.S. Congress, saw her commitment to keeping the peace within the Nicaraguan national family as slowing the pace of political, institutional, and economic reform in the early years of her seven-year term. During the last two years, however, Nicaragua began to develop the institutions that contribute to a pluralist system. Primary U.S. concerns have been the development of democracy and of the economy, and the settlement of property claims. U.S. aid was given to promote fair elections on October 20, 1996. Chamorro transferred power to the newly-elected president, Arnaldo Aleman, on January 10, 1997.

Background and Current Political Situation

When President Chamorro took office in April 1990, she took charge of a highly polarized nation and a fragile peace. The defeated Sandinista National Liberation Front (FSLN), which had governed since 1979, wished to retain the revolutionary social "conquests" they had instituted and the property that they had confiscated and distributed to peasants and party followers. They intended to parlay their 41% of the electoral vote (to Chamorro's 55%) and their control over the army into influence over the Chamorro Administration. President Chamorro also faced growing opposition from members of her own coalition, the United National Opposition (UNO), which rejected the President's conciliatory gestures towards the Sandinistas and her attempts at compromise.

For the first years of her term, the "national reconciliation" President Chamorro sought seemed more a quixotic vision than an achievable goal. Under the March 1990 agreements with the defeated Sandinistas which ensured a peaceful transition, Chamorro promised to respect the Sandinista redistribution of property and the Sandinista army hierarchy. This incensed members of the UNO coalition, who believed that these compromises would jeopardize the political and economic reforms they sought, and would block attempts to recover confiscated property. Chamorro further alienated UNO

members by announcing on her inauguration day that she would retain Sandinista leader General Humberto Ortega as army chief, and serve as Minister of Defense herself, without creating a civilian defense ministry. (Nonetheless, some analysts believe that only Ortega could have carried out a reduction in the Nicaraguan army from 28,500 in 1991 to about 15,000 in 1993.)

During the early 1990s, conflicts multiplied. As implementation of the transition agreements faltered, members of the former National Resistance ("contras") and Sandinista soldiers rearmed themselves to demand the land and assistance they had been promised during peace negotiations. Attempts to resolve the property and other issues paralyzed Nicaragua's unicameral legislature, the National Assembly. Tensions over economic austerity measures broke out into street violence led by Sandinista unions. Differences on many issues led to several lengthy impasses among the branches of government and within the legislature.

In 1995-1996, however, analysts perceived real progress towards establishing democratic institutions and norms, although much remained to be done. Some claimed however, that the government's lapses into paralysis on important issues and its inability to improve the economic lot of most citizens have undermined public confidence in democracy.

U.S. and Congressional Concerns¹

Both the Administration and Congress have outlined U.S. interests in Nicaragua to be the consolidation of democracy, the promotion of economic development, and the settlement of property claims. U.S. assistance has been provided to encourage accomplishment of these goals. Congress has delayed and restricted U.S. aid when it felt Nicaraguan progress toward these ends was not fast enough, especially regarding increasing civilian control over the military, resolution of high profile human rights cases involving the military, and the resolution of property claims involving U.S. citizens. Congress delayed some 1996 aid because of concerns over that year's election process.

Consolidation of Democracy. An important first step in consolidating Nicaragua's democracy was revising the constitution to reform the country's institutions and adjust the balance of powers. Sandinista opponents criticized provisions in the 1987 Constitution adopted by the Sandinista-dominated legislature that bestowed on the president broad powers, left the assembly with ambiguous input into the national budget, and designated the Nicaraguan army as the "Popular Sandinista Army," giving constitutional status to its partisan affiliation. In June 1995, the National Assembly approved changes to 65 of the constitution's 202 articles, strengthening the legislature's powers and tightening civilian controls over the military.

Reapportioning power. The most striking constitutional reforms concerned the President's spending powers. Because of the 1995 reforms, the constitution now specifies that the National Assembly can modify the proposed budget submitted annually by the

¹Section sources include: Nicaragua: A Country Study, FRD, Library of Congress, 1994; AID Congressional Presentations FY1996,1997; State Department memoranda; and the State Department Human Rights report, March 1996.

President; before, the constitution merely stated that the assembly had the right to receive, consider, and approve it. The amended constitution also deleted the President's power to promulgate laws on fiscal matters by executive decree. Now the President can only issue decree laws on administrative matters. Among other important changes, the emergency powers of the President were curtailed by two amendments. The first requires the President to submit any state of emergency decree (under which the Executive assumes special powers) to the National Assembly within 72 hours, rather than 45 days. The second strips the President of authority to assume legislative functions when the National Assembly is in recess, and instead requires the President to convoke an emergency session to take any legislative action.

Sandinista dominance over the Supreme Court was neutralized soon after Chamorro took office through the enlargement of the court and several new appointments. Under the 1995 reforms, the National Assembly enhanced its powers over those of the Executive in appointing Supreme Court justices.

Depoliticizing the Military and the Police, and Strengthening Civilian Control over the Military. The process of eliminating Sandinista influence from the military and the police force, and strengthening civilian control over the military, has included legal reforms, personnel changes, and political gestures. The symbolic affiliation with the Sandinistas was largely removed with Gen. Ortega's resignation in early 1995, Chamorro's appointment of Colonel Joaquin Cuadra -- widely regarded as moderate and professional -- to replace him, and the deletion in the constitution of "Sandinista" from the official name of the army.

More substantive reforms were made through the promulgation of a Military Code on Organization, Jurisdiction, and Pensions approved by the National Assembly in August 1994, and the constitutional amendments of June 1995. The new code prohibited members of the armed forces from having political affiliations, and from using military intelligence for political purposes. It gave the President the authority to select the head of the military for a five-year term from a slate of candidates proposed by the military, or to reject all candidates and request a new list. It also gave the President the power to dismiss the head of the military for specific causes, including violation of the requirement that the military be non-partisan. The code also provides that military judges are to be named by the Supreme Court and are to try only military crimes.

The Constitution's six "national defense" articles, completely rewritten by the 1995 amendments, reinforce the military code, and extend several of the code's provisions to the police. The new articles establish the army and the police as separate professional and apolitical institutions, forbid members of both from engaging in partisan activity and holding office in political organizations, and give the civilian courts jurisdiction over those accused of common crimes. The police are explicitly established as a civilian agency. The amendments also prohibit obligatory military service and forced recruitment.

Some analysts argue that further changes are necessary to reinforce civilian control over the military. These include: the establishment of a Ministry of Defense; the adoption of laws governing military personnel and careers, the defense budget, and military justice and intelligence; and greater information on or control over the military pension system and the businesses which support it.

Improving Observance of Human Rights. As reconciliation advances in Nicaragua, human rights observers no longer accuse the government of systematic human rights violations for political purposes. Nevertheless, the military and police continue to commit human rights violations. The situation is of particular concern in the countryside, where rearmed contras and former Sandinista soldiers take violent actions, in some cases loosely tied to political purposes but often for criminal purposes. Although the military and the police have been praised since the early 1990s for acting in a largely impartial matter in dealing with ex-contras and Sandinistas, some human rights observers are concerned not only with the number of seemingly unwarranted killings by military and police in rural areas, but also with the suspicion that some of these violations may be politically motivated.

Another concern is the perceived impunity of soldiers and police in apparently unjustifiable deaths, and the perceived cover-ups in prominent cases where high-level Sandinista military officers are suspected of involvement or obstruction of justice. The Chamorro Administration has taken steps to resolve such cases, including the 1992 formation of a "Tripartite Commission" of church, government, and Organization of American States (OAS) officials, and the assignment of some cases to the Supreme Court for review, but many believe there is little likelihood that military or police officers will be punished for past violations.²

Conducting a Fair Electoral Process. The fairness of the 1996 elections were seen as an important test of Nicaragua's continuing transition to a democratic state from its lengthy authoritarian past. October 20, 1996 elections were the third held since the 43-year dictatorship of the Somoza family was overthrown by the Sandinista revolutionaries in 1979. In the first, held in 1984, FSLN leader Daniel Ortega was elected president. Although foreign observers generally characterized those elections as fair, some opposition groups believed that FSLN domination of the government and media made a truly fair election impossible at that time, and withdrew from the race. The second elections took place in 1990, under the watchful eyes of over 2,000 observers including the OAS, the UN, and a team headed by former U.S. president Jimmy Carter. Violeta Chamorro won what were generally considered the fairest elections in Nicaraguan history.

In 1996, Nicaraguans elected a new president, all 90 members of the National Assembly, and the mayors of 143 municipalities. Arnaldo Aleman, former mayor of Managua and leader of the conservative Liberal Constitutionalist Party, defeated Daniel Ortega, former president and leader of the FSLN, as well as some 20 other candidates who trailed far behind the frontrunners, for president. Although it seemed clear from the outset that Aleman had won more than the 45% required for a first-round victory, he was not officially declared the winner for over a month, until November 22. Ortega and seven other presidential candidates filed complaints and demanded recounts. Ultimately, the Supreme Electoral Council acknowledged that there had been serious irregularities in the polling process, but denied that these flaws had affected the final presidential race results. International observers agreed, generally concluding that the irregularities were due more

²Prominent cases include the October 1990 killing of 16-year old Jean Paul Genie in which Gen. Ortega and members of his staff have been implicated, and the February 1991 assassination of former National Resistance leader Enrique Bermudez in Managua.

to poor organization than to an intention to commit fraud. President Aleman took office on January 10, 1997, and will serve a five-year term.

Economic Reform and Recovery

The Chamorro Administration's hopes of promoting economic recovery were stymied for its first three years, but the economy has steadily grown since the turmoil quieted somewhat in 1994. The Chamorro Administration inherited an economy that had declined every year since 1984. To stabilize the economy and encourage investment, it put in place free-market economic reforms, including privatizing the banks, liberalizing the foreign investment code, and drastically reducing state participation. Analysts credit the 1994 economic turnabout to the eventual implementation and success of these reforms. The economy grew 3.2% in 1994, 4.2% in 1995, and is expected to grow 4.7% in 1996. Exports are expected to grow 17%, to \$625 million, in 1996 over 1995. New private investment, by many accounts negligible early in the Chamorro regime, reached \$222 million in 1995, one-fourth of which was from abroad. According to Clinton Administration estimates, foreign investment had more than doubled in 1995 over 1993, from \$22 million to \$56 million, half of which came from U.S. firms.

Despite the improvements, most of the country's 4.1 million inhabitants are poor, and per capita income remains below that of the early Sandinista years. About 50% live in poverty, of which 19% live in extreme poverty. Per capita income is expected to reach \$466 in 1996, well below that of the early 1980s when it averaged about \$750 (in current year dollars). The Nicaraguan government says underemployment is at about 37%, and unemployment at about 17%, although other estimates for the latter range as high as 50%.

Resolving Property Claims

The Chamorro Administration's most intractable problem, which it has passed on to the Aleman government, was the disposition of 351 businesses, thousands of houses, and millions of acres in urban lots and rural lands that the Sandinista government expropriated and transferred to individuals, cooperatives, or state institutions. Because the expropriations of land benefitted over 100,000 families and individuals, many of them poor, the Chamorro government was reluctant to order the return of lands distributed to peasants, although it promised compensation. (Chamorro also made use of confiscated rural lands by distributing acreage to demobilized contras.) Difficulties in resolving claims stem from the sheer magnitude of the problem, lack of an adequate compensation mechanism, the issue's political volatility and, some argue, a lack of political will, particularly in the cases of properties occupied by prominent Sandinistas and government officials.

Progress has been made in processing claims, however. As of June 30, 1996, according to the Nicaraguan Finance Ministry, the government had completed the administrative review of over 90% of the 128,582 property claims presented it by 5,551 individuals or corporations. (The Ministry did not provide, however, figures on the number of claims definitively resolved by compensation or restitution.) Clinton Administration officials state that the Chamorro government has given priority to the claims of U.S. citizens. As of July 30, 1996, the Chamorro government had settled 898

of the 1,907 claims to property presented by U.S. citizens, primarily through compensation, according to U.S. Embassy statistics.

U.S. Assistance

The United States provided almost \$1 billion in assistance to Nicaragua from 1990-1996, during President Chamorro's term in office. Because the Nicaraguan economy was in such critical condition, aid in the early years of her administration consisted mostly of emergency balance of payments support. According to the U.S. Agency for International Development (AID), sound macroeconomic management by the Nicaraguan government, supported by U.S. assistance, stopped runaway inflation, reduced the size and scope of Nicaragua's public sector, balance of payments and fiscal deficits, and led to an agreement on a structural adjustment program with the International Monetary Fund and other international donors.

As Nicaraguan economic reforms have helped stabilize its economy, U.S. aid has shifted to development assistance. That assistance has been targeted at improving the generally low standard of living in Nicaragua, one of the poorest countries in the region, second only to Haiti. Basic social indicators, which have been low, have improved in recent years. The infant mortality rate, for example, has dropped from 90 per 1,000 live births in 1980 to 51 in 1994. According to AID, immunization coverage rose from 75% in 1992 to 88% in 1994, and more than 300,000 mothers and children have received expanded health, nutritional, and educational services.

Budget cuts and legislative restrictions³ have reduced U.S. aid to Nicaragua significantly since the beginning of the decade. In 1990, Nicaragua received \$223 million from the United States; in 1996, it received \$26 million. The U.S. contribution for support of Nicaragua's 1996 elections was \$9 million. The Administration request for FY1997 totals \$30.3 million, and for FY1998 the request is down to \$21.3 million. This includes aid for programs aimed at increased political participation, compromise and transparency: \$6 million (FY1997), \$4.8 million (FY1998); for promoting sustainable growth in employment and income: \$10.4 million (FY1997), \$6.2 million (FY1998); and for promoting better educated, healthier and smaller families: \$13.8 million (FY1997), \$10.3 million (FY1998).

³Since 1994, Congress has prohibited ESF aid to the Nicaraguan government unless significant progress were made in areas such as prominent human rights cases, property claims, and military and judicial reform (P.L. 103-306).

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