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Nicaragua's Canal Push and Concerns for the U.S.

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President Daniel Ortega of Nicaragua is pushing for a proposed canal project despite lingering questions and growing skepticism from Nicaraguan citizens and politicians. With no public debate, a deficit of hard facts, and a proposal rushed through the Nicaraguan National Assembly, the canal would be a massive undertaking with many unforeseen consequences and still uncertain economic gains, which could be a boon or bust for the second poorest nation in the Western Hemisphere.

At the same time, the project also presents key questions for the U.S. concerning the state of democracy and transparency in Nicaragua, the erosion of property rights, and the continued growth of Chinese investment throughout the region.

Dubious Plans and Abundant Unknowns. On June 14, just one day after the deal was approved by his country's parliament, President Ortega signed a contract with the Hong Kong Nicaragua Canal Development Investment Company (HKND) giving the Chinese construction firm the right to build a shipping canal and related facilities across Nicaragua. Despite little being known about the project, the proposal and its concessions passed the

National Assembly easily and along strict party lines. With less than a week to consider the proposal, no opportunity for the public to weigh in, and no analysis of the project's feasibility, opposition leaders had little information and little chance to counter the proposal.

Part of the agreement with HKND is that the canal will garner Nicaragua's government a 51 percent controlling interest and yearly income in exchange for a 50-year ownership concession to HKND, with an option for a 50-year renewal. The deal would also reportedly grant HKND exemption from legal recourse or economic sanctions for failing to complete the project, as well as land use and tax incentives.

Wang Jing, owner of HKND, is a major shareholder of a Chinese telecom company and brings no experience in canal or transport infrastructure construction to the table, a serious concern given the potential environmental impacts and the complexity of the project. HKND was unheard of prior to the deal—its website launched only days prior to the signing of the contract. Nevertheless, Wang has stated he is “100 percent sure” construction will begin by the end of 2014 and be completed by 2019.¹ If he fails, the proposal approved by the National Assembly assures that he can walk away unscathed.

Although the project has gone public, many questions remain, including the route of the canal, its economic feasibility, and the overall environmental effects, especially on Lake Nicaragua, one of the major sources of freshwater in the region. While limited infrastructure details have been announced, it appears that the project would also include an oil pipeline, two deepwater ports, an airport, a railway,

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and two free trade zones. With a projected total price tag of \$40 billion, the overall project would cost four times Nicaragua's 2011 gross domestic product (GDP).

Key Concerns for the U.S. Visiting Nicaragua in July, U.S. Deputy Assistant Secretary of Commerce Walter Bastian commented that the U.S. government might be willing to assist in the canal project and would further pursue the idea if the private sector expressed interest in investing. Bastian additionally emphasized that any contracts must have transparency and legal certainty,² perhaps a reference to past property disputes with Nicaragua over confiscation of American property and Nicaragua's failure to fully resolve those disputes and compensation.

The confiscations occurred largely during Nicaragua's civil war in the 1980s as the communist Sandinistas grabbed property of the prior regime's supporters, opposition members, and those who fled the country. Additional seizures occurred in the 1990s following Ortega's electoral loss.³

Yearly, the U.S. issues a property waiver to Nicaragua for continuing to resolve claims by U.S. citizens whose property had been confiscated. Without such a waiver, the U.S. would be compelled to oppose Nicaraguan efforts to secure loans with the Inter-American Development Bank, International Monetary Fund, and World Bank. If U.S. public investment does come to fruition, completion of compensation of the approximately 200 outstanding American claimants for restitution should be a requirement for U.S. government investment and support in the project.⁴

Additionally, though Wang claims no ties with the Chinese government in management of his business affairs, his telecom business in China and the ever-growing flow of Chinese investment in Latin America should bring caution to those who value transparency, free trade, and especially property rights. With ever-increasing doubts about the project's transparency and an already strong history of

land seizures and displacements in Nicaragua, there is little reason to expect a different approach if the project is to be driven by Chinese investment.

The U.S. and foreign investors should be wary of a deal that will have dubious impacts on Nicaraguans and be run solely by an inexperienced telecoms businessman, and instead look to further promote transparency and free-market principles in the region.

Going Forward. On August 7, Nicaragua's political opposition filed a Supreme Court challenge to the government's expeditiously passed canal law on the basis it that it violates 15 articles of the constitution, most notably guarantees to private property, natural resources, and indigenous lands.⁵ In a country with almost complete one-party control, the move by opposition leadership is likely to be little more than symbolic, but the U.S. should nonetheless take note of these and other concerns. Going forward, Congress and the Administration should:

- Require the resolution of outstanding property compensation cases and the commitment of the Ortega administration to end future land invasions as a condition for U.S. government involvement in the canal project;
- Pressure Ortega to reverse the downward slide toward authoritarianism and institute reforms that would return accountability and democracy, restore the independence of the electoral council and judiciary, and strengthen civil society; and
- Urge any U.S. firms with government grants and loans to demand transparency in contract and bidding procedures, especially due to HKND's vast autonomy in pursuing the project and despite claims that the project will be a private venture with no Chinese government involvement.

Promoting Democracy and Rule of Law. Though proponents of the project claim that 40,000

1. Tim Rogers, "Nicaragua's Canal Controversy Builds," *The Christian Science Monitor*, August 7, 2013, <http://www.csmonitor.com/World/Americas/Latin-America-Monitor/2013/0807/Nicaragua-s-canal-controversy-builds> (accessed August 9, 2013).

2. Associated Press, "U.S. Willing to Invest in a New Nicaragua Canal to Rival the Panama Canal," *Fox News Latino*, July 31, 2013, <http://latino.foxnews.com/latino/money/2013/07/31/us-willing-to-invest-in-new-nicaragua-canal-to-rival-panama-canal/> (accessed August 22, 2013).

3. Ambassador Robert J. Callahan and Ray Walsler, "No New Property Waiver for Nicaragua's Daniel Ortega," *Heritage Foundation Issue Brief* No. 3664, July 12, 2012, <http://www.heritage.org/research/reports/2012/07/nicaragua-s-daniel-ortega-no-new-property-waiver>.

4. *Ibid.*

5. Rogers, "Nicaragua's Canal Controversy Builds."

jobs will be created and that Nicaraguan GDP will double, skeptics see the rush in the project as just another Ortega–Sandinista crony project that flaunts the rule of law and democratic institutions in order to enrich themselves.⁶

Already on a questionable footing democratically in the wake of his unconstitutional third-term reelection, Ortega should heed the calls of politicians and the people alike to slow the process down

and allow an open examination of the canal proposal due to its wide-reaching impact.

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6. Associated Press, “Nicaragua Fast-Tracks Chinese Plan to Build Canal to Rival Panama,” *The Guardian*, June 11, 2013, <http://www.theguardian.com/world/2013/jun/11/nicaragua-chinese-plan-canal-panama> (accessed August 27, 2013).