

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Docket Nos. USTR-2024-0021 and USTR-2024-0022

**Initiation of Section 301 Investigation, Hearing, and Request for Public Comments:
Nicaragua’s Acts, Policies, and Practices Related to Labor Rights, Human Rights,
and Rule of Law**

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice of initiation of investigation, hearing, and request for comments.

SUMMARY: The U.S. Representative has initiated an investigation of Nicaragua’s acts, policies, and practices related to labor rights, human rights, and the rule of law. The inter-agency Section 301 Committee is holding a public hearing and seeking public comments in connection with this investigation.

DATES: December 10, 2024: The date the U.S. Trade Representative initiated the investigation.

January 8, 2025, at 11:59 p.m. EST: Deadline for submitting written comments and requests to appear at the hearing. The request to appear must include a summary of testimony.

January 16, 2025: The Section 301 Committee will convene a public hearing in the main hearing room of the U.S. International Trade Commission, 500 E Street SW, Washington DC 20436, beginning at 10:00 a.m. If necessary, the hearing may continue on the next business day.

January 23, 2025, at 11:59 p.m. EST: Deadline for submitting post-hearing rebuttal comments.

ADDRESS: Submit documents in response to this notice, including written comments, hearing appearance requests, summaries of testimony, and post-hearing rebuttal comments through the appropriate online USTR portal at: <https://comments.ustr.gov/s/>.

FOR FURTHER INFORMATION CONTACT: Megan Grimball and Philip Butler, Chairs of the Section 301 Committee; Leigh Bacon, Chief Counsel for Negotiations, Legislation, and Administrative Law; or Henry Smith and Erin Biel, Assistant General Counsels, at 202.395.5725.

SUPPLEMENTARY INFORMATION:

I. Background

Numerous credible reports by the U.S. Government and United Nations bodies document that the Government of Nicaragua has engaged in persistent attacks on labor rights, human rights, and the rule of law. These actions include politically-motivated arrests and imprisonments, repression of members of religious groups and non-governmental organizations, extrajudicial killings, cruel, inhuman or degrading treatment, restrictions on freedom of expression and movement, violence against members of marginalized groups, repression of freedom of association and collective bargaining, forced labor, human trafficking, eliminating legislative and judicial independence, spurious seizures of property, arbitrary fines and rulings, and other harmful acts. The Nicaraguan Government's increasing and pervasive labor and human rights violations and dismantling of the rule of law may, directly or indirectly, impact U.S. workers and companies, including through the exploitation of workers, harming both Nicaraguans directly and U.S. workers and businesses indirectly through unfair competition; by negatively impacting the Nicaraguan economy and market, with lost sales and exports for

U.S. enterprises; and by lost investment and business opportunities for U.S. workers and companies, including through the creation of a high-risk environment to invest or conduct business.

II. Initiation of Section 301 Investigation

Section 302(b)(1)(A) of the Trade Act of 1974, as amended (Trade Act), authorizes the U.S. Trade Representative to initiate an investigation to determine whether an act, policy, or practice of a foreign country is actionable under Section 301 of the Trade Act. Actionable matters under Section 301 include acts, policies, and practices of a foreign country that are unreasonable or discriminatory and burden or restrict U.S. commerce. An act, policy, or practice is unreasonable if, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, it is otherwise unfair and inequitable. Unreasonable acts, policies, and practices include any act, policy, or practice, or combination thereof, that constitutes a persistent pattern of conduct that denies workers the right of association, denies workers the right to organize and bargain collectively, permits any form of forced or compulsory labor, fails to provide a minimum age for the employment of children, or fails to provide standards for minimum wages, hours of work, and occupational safety and health of workers.

On December 10, 2024, the U.S. Trade Representative initiated a Section 301 investigation to examine whether Nicaragua's acts, policies, and practices related to labor rights, human rights, and the rule of law are unreasonable or discriminatory and burden or restrict U.S. commerce.

Pursuant to Section 302(b)(1)(B), the U.S. Trade Representative consulted with the appropriate advisory committees. The U.S. Trade Representative also consulted with

the inter-agency Section 301 Committee. Pursuant to Section 303(a) of the Trade Act, the U.S. Trade Representative has requested consultations with the Government of Nicaragua.

Pursuant to Section 304 of the Trade Act, the U.S. Trade Representative must determine whether the act, policy, or practice under investigation is actionable under Section 301. If that determination is affirmative, the U.S. Trade Representative must determine what action to take.

The investigation initially will focus on the following issues:

- (1) Evidence indicates that the Government of Nicaragua has committed or allowed violations and abuses of internationally recognized labor rights. Actions related to such abuses and violations include: the ruling party's use of control over major unions to harass and intimidate workers; repression of freedom of association; elimination of workers' right to organize and join independent unions of their choice; routine violations of collective bargaining and labor laws with impunity; interference in worker and employer organizations; seizure of assets and steps to remove the citizenship of members of worker and employer organizations; dissolution of at least 19 labor unions; arbitrary dismissals, arrests, and imprisonment of key union leaders; child and forced labor; human trafficking; discrimination against women and on the basis of political opinion; negligence in protecting health in the workplace; wage deductions and theft; and retaliation for claiming rights violations. The Government's arbitrary closure of civil society organizations that provide services to prevent child and forced labor and support victims exacerbates labor rights violations and abuses.

(2) Evidence indicates that the Government of Nicaragua has committed human rights violations against citizens of Nicaragua and foreign residents, including through political imprisonments, arrests, banishments, property expropriation (including property belonging to U.S. citizens), and efforts to arbitrarily strip citizens of their Nicaraguan nationality. The Government of Nicaragua systematically has cancelled the legal status of, thereby closing, religious institutions and faith-based humanitarian organizations, independent higher education institutions, and thousands of non-governmental organizations (NGOs) under spurious accusations. As a result of these arbitrary closures, the Government of Nicaragua has expropriated the assets and properties of these organizations and institutions. There is credible reporting that the Government of Nicaragua has engaged in the cruel, degrading, and inhuman treatment of political prisoners, extrajudicial killings, and torture of its citizens and foreign residents. The Government of Nicaragua also has severely restricted the exercise of freedoms of expression, movement, and religion or belief (including by taking steps to strip Nicaraguan clergy and religious actors of their citizenships, hounding Nicaraguan and foreign resident religious actors into exile, confiscating property, and punishing free expression of religion or belief with unjust detention, reprisals, and threats). The Government of Nicaragua has suppressed democracy, and committed violence against members of minority groups, including members of Indigenous and Afro-descendant communities, primarily located in the Caribbean Autonomous regions. The Government encourages illegal encroachment on protected lands, including those belonging to Indigenous communities, for mining and cattle ranching.

(3) Evidence indicates that the Government of Nicaragua has dismantled rule of law in Nicaragua, including a radical rewriting of the national constitution that centralizes power in the presidency and nullifies the independence of the courts and the legislature. The Government of Nicaragua engages in arbitrary or partial administration of law; imposes arbitrary or incorrect fines, taxes, customs inspections, and rulings; has revoked the legal status of at least 151 prominent business chambers and associations, including the American Chamber of Commerce; and engages in indiscriminate seizures of property. The regime has used inspections, re-registration fees, and historical tax audits in a prejudicial manner towards U.S. and foreign firms to benefit domestic competitors and has impeded the flow of assets out of the country when these companies decide to exit the market.

(4) Evidence indicates that Nicaragua's labor and human rights violations and dismantling of rule of law, taken jointly or separately, may, directly or indirectly, impact U.S. workers and companies, including through the exploitation of workers, harming both Nicaraguans directly and U.S. workers and businesses indirectly through unfair competition; by negatively impacting the Nicaraguan economy and market, with lost sales and exports for U.S. enterprises; and by lost investment and business opportunities for U.S. workers and companies, including through the creation of a high-risk environment to invest or conduct business.

In addition to these issues, interested parties may submit for consideration information on other acts, policies, and practices of Nicaragua related to labor rights, human rights, and rule of law that might be included in this investigation.

III. Request for Public Comments

Interested persons are invited to submit written comments or oral testimony on any issue covered by the investigation. In particular, USTR invites comments with respect to:

- Nicaragua's acts, policies, and practices related to labor rights, human rights, and rule of law.
- Whether Nicaragua's acts, policies, and practices related to labor rights, human rights, and rule of law are unreasonable or discriminatory.
- Whether Nicaragua's acts, policies, and practices related to labor rights, human rights, and rule of law burden or restrict U.S. commerce, and if so, the nature and level of the burden or restriction. Such comments may include economic assessments of the burden or restriction on any sector or industry, as well as assessments of the burden or restriction on labor in the United States related to the acts, policies, and practices under investigation.
- The determinations required under Section 304 of the Trade Act, that is, whether actionable conduct exists under Section 301(b) and what action, if any, should be taken.

To be assured of consideration, USTR must receive written comments by 11:59 p.m. EST on January 8, 2025, in accordance with the instructions in section IV below.

The Section 301 Committee will convene a public hearing on January 16, 2025, in the main hearing room of the U.S. International Trade Commission, 500 E Street SW, Washington DC 20436, beginning at 10:00 a.m. Persons wishing to appear at the hearing must provide written notification of their intention and a summary of the proposed testimony by 11:59 p.m. EST on January 8, 2025, in accordance with the instructions in

section IV below. Remarks at the hearing are limited to five minutes to allow for possible questions from the Section 301 Committee.

Post-hearing rebuttal comments, which should be limited to rebutting or supplementing testimony at the hearing, are due by 11:59 p.m. EST on January 23, 2025, in accordance with the instructions in section IV below.

IV. Submission Instructions

Interested persons must submit written comments, requests to appear at the hearing, summaries of testimony, and post-hearing rebuttal comments using the appropriate docket on the portal at <https://comments.ustr.gov/s/>. To submit written comments, including post-hearing rebuttal comments, use the docket on the portal entitled ‘Request for Comments on the Section 301 Investigation of Nicaragua’s Acts, Policies, and Practices Related to Labor Rights, Human Rights, and Rule of Law,’ docket number USTR-2024-0021.

Interested persons wishing to provide testimony at the hearing must submit a notification of intent and summary of testimony using the docket entitled ‘Request to Appear at the Hearing on the Section 301 Investigation of Nicaragua’s Acts, Policies, and Practices Related to Labor Rights, Human Rights, and Rule of Law,’ docket number USTR-2024-0022.

You do not need to establish an account to submit comments or a notification of intent to testify. The first screen allows you to enter identification and contact information. Third party organizations such as law firms, trade associations, or customs brokers should identify the full legal name of the organization they represent and identify

the primary point of contact for the submission. Information fields are optional, however, your comment or request may not be considered if insufficient information is provided.

Fields with a gray Business Confidential Information (BCI) notation are for BCI information that will not be made publicly available. Fields with a green (Public) notation will be viewable by the public.

After entering the identification and contact information, you can complete the remainder of the comment, or any portion of it, by clicking 'Next.' You may upload documents at the end of the form and indicate whether USTR should treat the documents as business confidential or public information.

Any page containing BCI must be clearly marked 'BUSINESS CONFIDENTIAL' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that the information would not customarily be released to the public.

Parties uploading attachments containing BCI also must submit a public version of their comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the USTR Section 301 support line at 202.395.5725 to discuss whether alternative arrangements are possible.

USTR will post attachments uploaded to the docket for public inspection, except for properly designated BCI. You can view submissions on USTR's electronic portal at <https://comments.ustr.gov/s/>.

Juan Millan,
Acting General Counsel,
Office of the United States Trade Representative.