

115TH CONGRESS
2D SESSION

S. 3233

To impose sanctions with respect to persons responsible for violence and human rights abuses in Nicaragua, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 18, 2018

Mr. MENENDEZ (for himself, Mr. CRUZ, Mr. NELSON, Mr. RUBIO, Mr. DURBIN, Mr. PERDUE, Mr. LEAHY, Mr. KAINE, Mr. CARDIN, Mr. COTTON, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions with respect to persons responsible for violence and human rights abuses in Nicaragua, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Nicaragua Human Rights and Anticorruption Act of
6 2018”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Sense of Congress on advancing a negotiated solution to Nicaragua's crisis.

Sec. 4. Imposition of sanctions with respect to persons responsible for human rights violations and corruption in Nicaragua.

Sec. 5. Certification and waiver.

Sec. 6. Report on human rights violations and corruption in Nicaragua.

Sec. 7. Definitions.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) On April 19, 2018, protests began in Mana-
4 gua, Nicaragua, as a result of changes made to the
5 social security system by the Government of Nica-
6 ragua that would have raised workers' contributions
7 and cut retirees' pensions.

8 (2) The Government of Nicaragua has re-
9 sponded to antigovernment protests with excessive
10 force and killings perpetrated by its public security
11 forces and, as of July 17, 2018, more than 273 peo-
12 ple have been killed in the context of those protests,
13 according to the Inter-American Commission on
14 Human Rights of the Organization of American
15 States.

16 (3) On May 21, 2018, the Inter-American Com-
17 mission on Human Rights issued a statement that
18 described the excessive use of force by Nicaraguan
19 security forces and armed irregular groups that re-
20 sulted in "dozens of persons killed and hundreds
21 wounded; illegal and arbitrary detentions; practices

1 of torture, cruel, inhuman and degrading treatment;
2 censorship and attacks on the press; and other
3 forms of intimidation”.

4 (4) On May 29, 2018, Amnesty International
5 released a report entitled “Shoot to Kill:
6 Nicaragua’s Strategy to Repress Protest”, which
7 documented the lethal use of weapons, specifically
8 noting that gunshots fired by pro-government groups
9 targeted specific individuals.

10 (5) Transparency International’s 2017 Corrup-
11 tion Perceptions Index ranks Nicaragua as tied for
12 151 of 180, the third worst ranking for a country
13 in the Western Hemisphere, after Venezuela and
14 Haiti.

15 (6) The Country Reports on Human Rights
16 Practices for 2017 of the Department of State
17 notes, with respect to Nicaragua, that actions by the
18 ruling Sandinista National Liberation Front party
19 have resulted in the de facto concentration of power
20 in a single party, with an authoritarian executive
21 branch exercising significant control over the legisla-
22 tive, judicial, and electoral functions of the Govern-
23 ment of Nicaragua.

24 (7) The 2017 report of the Department of
25 State also stated with respect to Nicaragua that

1 “the most significant human rights abuses included
2 reports of arbitrary or unlawful killings; almost com-
3 plete lack of judicial independence; unlawful inter-
4 ference with privacy; multiple obstacles to freedom
5 of speech and the press, including government in-
6 timidation, and harassment of and threats against
7 journalists and independent media; and partisan re-
8 strictions on freedom of peaceful assembly”.

9 (8) On July 5, 2018, pursuant to the Global
10 Magnitsky Human Rights Accountability Act (sub-
11 title F of title XII of Public Law 114–328; 22
12 U.S.C. 2656 note), the United States Government
13 sanctioned 3 individuals from Nicaragua who have
14 been involved in serious human rights abuses or en-
15 gaged in corruption, including—

16 (A) Francisco Javier Diaz, Commissioner
17 of the National Police of Nicaragua;

18 (B) Jose Francisco Lopez, Vice President
19 of ALBANISA; and

20 (C) Fidel Antonio Moreno, a member of
21 the Sandinista National Liberation Front party.

22 **SEC. 3. SENSE OF CONGRESS ON ADVANCING A NEGOTIATED SOLUTION TO NICARAGUA’S CRISIS.**
23

24 It is the sense of Congress that—

1 (1) credible negotiations between the Govern-
2 ment of Nicaragua and representatives of the Catho-
3 lic Church, civil society, student movement, private
4 sector, and political opposition in Nicaragua rep-
5 resent the best opportunity to reach a peaceful solu-
6 tion to the crisis in Nicaragua that includes—

7 (A) a commitment to hold early elections
8 that meet democratic standards and permit
9 credible international electoral observation;

10 (B) the cessation of the violence per-
11 petrated against civilians by the National Police
12 of Nicaragua and by armed groups supported
13 by the Government of Nicaragua; and

14 (C) independent investigations into the
15 killings of more than 273 protesters; and

16 (2) negotiations between the Government of
17 Nicaragua and representatives of the Catholic
18 Church, civil society, student movement, private sec-
19 tor, and political opposition in Nicaragua have not
20 resulted in an agreement as of the date of the enact-
21 ment of this Act because the Government of Nica-
22 ragua failed to credibly participate in the process.

1 **SEC. 4. IMPOSITION OF SANCTIONS WITH RESPECT TO PER-**
2 **SONS RESPONSIBLE FOR HUMAN RIGHTS**
3 **VIOLATIONS AND CORRUPTION IN NICA-**
4 **RAGUA.**

5 (a) IN GENERAL.—The President shall impose the
6 sanctions described in subsection (b) with respect to any
7 foreign person, including any current or former official of
8 the Government of Nicaragua or any person acting on be-
9 half of that Government, that the President determines—

10 (1) has perpetrated, or is responsible for order-
11 ing or otherwise directing, significant acts of vio-
12 lence or human rights violations in Nicaragua
13 against persons associated with the protests in Nica-
14 ragua that began on April 18, 2018;

15 (2) is responsible for or complicit in ordering,
16 controlling, or otherwise directing significant actions
17 or policies that undermine democratic processes or
18 institutions in Nicaragua; or

19 (3) is an official of the Government of Nica-
20 ragua, or a senior associate of such an official, that
21 is responsible for or complicit in ordering, control-
22 ling, or otherwise directing acts of significant cor-
23 ruption, including the expropriation of private or
24 public assets for personal gain, corruption related to
25 government contracts, bribery, or the facilitation or

1 transfer of the proceeds of corruption to foreign ju-
2 risdictions.

3 (b) SANCTIONS DESCRIBED.—

4 (1) IN GENERAL.—The sanctions described in
5 this subsection are the following:

6 (A) ASSET BLOCKING.—The exercise of all
7 powers granted to the President by the Inter-
8 national Emergency Economic Powers Act (50
9 U.S.C. 1701 et seq.) to the extent necessary to
10 block and prohibit all transactions in all prop-
11 erty and interests in property of a person deter-
12 mined by the President to be subject to sub-
13 section (a) if such property and interests in
14 property are in the United States, come within
15 the United States, or are or come within the
16 possession or control of a United States person.

17 (B) EXCLUSION FROM THE UNITED
18 STATES AND REVOCATION OF VISA OR OTHER
19 DOCUMENTATION.—In the case of an alien de-
20 termined by the President to be subject to sub-
21 section (a), denial of a visa to, and exclusion
22 from the United States of, the alien, and rev-
23 ocation in accordance with section 221(i) of the
24 Immigration and Nationality Act (8 U.S.C.

1 1201(i)), of any visa or other documentation of
2 the alien.

3 (2) PENALTIES.—A person that violates, at-
4 tempts to violate, conspires to violate, or causes a
5 violation of paragraph (1)(A) or any regulation, li-
6 cense, or order issued to carry out paragraph (1)(A)
7 shall be subject to the penalties set forth in sub-
8 sections (b) and (c) of section 206 of the Inter-
9 national Emergency Economic Powers Act (50
10 U.S.C. 1705) to the same extent as a person that
11 commits an unlawful act described in subsection (a)
12 of that section.

13 (3) EXCEPTION RELATING TO IMPORTATION OF
14 GOODS.—The requirement to block and prohibit all
15 transactions in all property and interests in property
16 under paragraph (1)(A) shall not include the author-
17 ity to impose sanctions on the importation of goods
18 (as that term is defined in section 16 of the Export
19 Administration Act of 1979 (50 U.S.C. 4618) (as
20 continued in effect pursuant to the International
21 Emergency Economic Powers Act (50 U.S.C. 1701
22 et seq.))).

23 (4) EXCEPTION TO COMPLY WITH UNITED NA-
24 TIONS HEADQUARTERS AGREEMENT.—Sanctions
25 under paragraph (1)(B) shall not apply to an alien

1 if admitting the alien into the United States is nec-
2 essary to permit the United States to comply with
3 the Agreement regarding the Headquarters of the
4 United Nations, signed at Lake Success June 26,
5 1947, and entered into force November 21, 1947,
6 between the United Nations and the United States,
7 or other applicable international obligations.

8 (c) REGULATORY AUTHORITY.—The President shall
9 issue such regulations, licenses, and orders as are nec-
10 essary to carry out this section.

11 (d) TERMINATION.—This section shall terminate on
12 December 31, 2021.

13 **SEC. 5. CERTIFICATION AND WAIVER.**

14 (a) CERTIFICATION.—Not later than 180 days after
15 the date of the enactment of this Act, and annually there-
16 after until December 31, 2021, the Secretary of State
17 shall submit to the appropriate congressional committees
18 a report certifying whether the Government of Nicaragua
19 is taking effective steps—

20 (1) to strengthen the rule of law and demo-
21 cratic governance, including the independence of the
22 judicial system and electoral council;

23 (2) to combat corruption, including by inves-
24 tigating and prosecuting officials of that Govern-
25 ment who are credibly alleged to be corrupt; and

1 (3) to protect the right of political opposition
2 parties, journalists, trade unionists, human rights
3 defenders, and other civil society activists to operate
4 without interference.

5 (b) WAIVER.—

6 (1) TEMPORARY GENERAL WAIVER.—If the Sec-
7 retary of State certifies to the appropriate congress-
8 sional committees under subsection (a) that the Gov-
9 ernment of Nicaragua is taking effective steps as de-
10 scribed in that subsection, the President may waive
11 the imposition of additional sanctions under section
12 4 for a period of not more than one year beginning
13 on the date of the certification.

14 (2) CASE-BY-CASE WAIVER.—The President
15 may waive the application of sanctions under section
16 4 with respect to a person if the President—

17 (A) determines that such a waiver is in the
18 national interest of the United States; and

19 (B) not later than the date on which the
20 waiver takes effect, submits to the appropriate
21 congressional committees a notice of and jus-
22 tification for the waiver.

23 (c) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that the President should exercise the waiver author-
25 ity provided under subsection (b)(1) if the Secretary of

1 State certifies under subsection (a) that the Government
2 of Nicaragua is taking effective steps as described in that
3 subsection.

4 **SEC. 6. REPORT ON HUMAN RIGHTS VIOLATIONS AND COR-**
5 **RUPTION IN NICARAGUA.**

6 (a) IN GENERAL.—Not later than 180 days after the
7 date of the enactment of this Act, and annually thereafter
8 until December 31, 2021, the Secretary of State, acting
9 through the Assistant Secretary of State for Intelligence
10 and Research, and in coordination with the Director of
11 National Intelligence, shall submit to the appropriate con-
12 gressional committees a report on the involvement of sen-
13 ior officials of the Government of Nicaragua, including
14 members of the Supreme Electoral Council, the National
15 Assembly, and the judicial system, in human rights viola-
16 tions and acts of significant corruption.

17 (b) ELEMENTS.—The report required by subsection
18 (a) shall include, to the extent feasible, the following:

19 (1) For each senior official described in that
20 subsection—

21 (A) the estimated total amount of funds or
22 other assets held in accounts at United States
23 financial institutions or foreign financial insti-
24 tutions that are under the direct or indirect
25 control of the senior official;

1 (B) a description of such funds or assets;

2 (C) an identification of any equity interest

3 held by the senior official—

4 (i) in an entity on the list of specially

5 designated nationals and blocked persons

6 maintained by the Office of Foreign Assets

7 Control of the Department of the Treas-

8 ury; or

9 (ii) in any other entity subject to

10 sanctions imposed by the United States;

11 (D) a description of how the senior official

12 acquired such funds, assets, or equity interests;

13 and

14 (E) a description of how such funds, as-

15 sets, or equity interests have been used.

16 (2) A description of any new methods used by

17 senior officials described in subsection (a) to evade

18 anti-money laundering and related laws, including

19 recommendations to improve techniques to combat

20 the illicit use of the United States financial system

21 by such senior officials.

22 (c) FORM.—The report required by subsection (a)

23 shall be submitted in unclassified form but may include

24 a classified annex.

1 (d) PUBLIC AVAILABILITY.—The unclassified portion
2 of the report required by subsection (a) shall be posted
3 on a publicly available website of the Department of State.

4 **SEC. 7. DEFINITIONS.**

5 In this Act:

6 (1) APPROPRIATE CONGRESSIONAL COMMIT-
7 TEES.—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on Foreign Relations,
10 the Committee on Banking, Housing, and
11 Urban Affairs, and the Committee on Appro-
12 priations of the Senate; and

13 (B) the Committee on Foreign Affairs, the
14 Committee on Financial Services, and the Com-
15 mittee on Appropriations of the House of Rep-
16 resentatives.

17 (2) UNITED STATES PERSON.—The term
18 “United States person” means—

19 (A) a United States citizen or an alien law-
20 fully admitted for permanent residence to the
21 United States; or

22 (B) an entity organized under the laws of
23 the United States or of any jurisdiction within

1 the United States, including a foreign branch of
2 such an entity.

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