

# ***MESOAMERICA***

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## **NICARAGUA**

### **State of Economic Emergency Suspended**

The State of Economic Emergency declared by President Enrique Bolaños on 30 May, partially as a result of a nation-wide energy crisis, was retracted on 3 June when Bolaños announced that conditions had changed and that a solution to energy distribution had been found.

Bolaños suspended Articles 32, 45 and 52 of the Constitution, which protect the rights of public protest and a citizen's ability to challenge government decisions. The presidential decree also gave him the right to censor the press and suspend television and radio if they were believed to be endangering public security.

Following the State of Emergency decree on 30 May, Bolaños approved an 11.83% increase in electricity rates for those consuming more than 150 kilowatts per month, which according to the government would affect only 22.2 % of users. Information provided by Nicaragua's National Consumer Defense Network, however, indicate that the price hike would affect some 90% of the population.

After a weekend of periodic blackouts in areas throughout the country, small levels of violence were experienced in response to the State of Emergency. On 1 June, a Ministry of Education, Culture and Sports vehicle was burned in front of the University of Central America in Managua.

Although Bolaños retracted the decree, he said that the energy tariff increase and the law of Fiscal Balance will remain, although enforcement will be difficult because of counter measures taken by the National Assembly.

On 2 June, the National Assembly rejected the State of Emergency and named new functionaries to the posts within the Superintendency of Public Services (SISEP), the new regulatory body that oversees energy, water and telecommunications. All of the nominations were of opposition members from either the Sandinista National Liberation Front (FSLN) or Liberal Constitutionalist Party (PLC). Leonal Aguirre, the new Superintendent of the Energy sector, immediately rejected the 11.83% electrical tariff increase.

SISEP would strip all authority from the Nicaraguan Energy Institute (INE), such as the ability to regulate electricity tariffs, and the new institution is not recognized by Bolaños or the Central American Court of Justice, which declared it inapplicable. Upon being named as Superintendent of SISEP, liberal congressman Víctor Manuel Guerrero's visa to travel to the US was revoked by US authorities for alleged acts of corruption.

Bolaños currently favors the state institutions of INE, Nicaraguan Institute of Aqueducts and Sewers (INAA) and Telecommunications and Postal Service (Telcor) as the country's regulating authority rather than SISEP. He ordered a special brigade of riot police to guard these government buildings as members of SISEP attempted to assume their new posts in the same buildings as those currently occupied by INE, INAA and Telcor.

### **Union Fenosa Claims Government is Incompliant**

The Spanish power company in charge of electrical distribution, Unión Fenosa, has been requesting the 11.83% increase for months in order to offset rising costs of bunker fuel, which is used to generate 80% of the energy in the country.

In mid-May the company requested the World Bank to investigate Fenosa's assertion that the Nicaraguan government has failed to uphold its end of the privatization contract. The company alleges that because of certain government actions and laws approved by the National Assembly, a climate of risk has been created that could affect the company's investments in the country.

Fenosa has been doing business in Nicaragua since '01 when it signed a contract with the administration of the former President Arnoldo Alemán. An insurance clause in the contract stipulates that if Fenosa must leave the country as a result of political conditions that prevent it from receiving expected incomes, the government must pay the company the \$115 million bond that was deposited with the Multilateral Investment Guarantee Agency (MIGA) in order to guarantee Fenosa's investment.

Specific government actions that have put Fenosa's investments at risk include a failure to modify normative tariffs since '01, the reforms of the '03 Law of Industrial Electricity, which provoked changes in the application of non-registered energy, the lack of prison sentences for electrical fraud and the creation of SISEP.

Erika Ramírez, a spokesperson for Fenosa, says there is no profit margin for the company because the money received all goes to generate energy. Ruth Herrera, Coordinator of the Consumer Defense Network, commented regarding Fenosa's charges that "Fenosa complains of huge losses, and yet they have done nothing about the 30% of all the energy they buy from the generators that is lost as a result of faulty and insufficient infrastructure."

In early '03, a panel of justices from Nicaragua's Supreme Court ruled that Fenosa had to lower its rates because the INE had illegally authorized a rate increase in '01. Ruth Herrera, who tried the case on behalf of consumers, said that the law states that a private company cannot raise rates within five years of purchase.

According to Roberto Gonzáles, a member of the Infrastructure Commission of the National Assembly, Fenosa has not fulfilled its responsibilities. He claims that quality of service has been below what was expected and that the infrastructure has not been expanded as part of the strategic and fundamental clause in the contract.

Herrera also refers to Fenosa's request for an investigation by the World Bank as "blackmail" aimed at forcing the government to authorize the 11.83% increase.

At the end of '03, Fenosa annulled its contract with the Dominican Republic because of clashes with the country's Superintendent of Energy. The Dominican government agreed to repay the company's investment over a 10-year period.

### **Nemagon Victims Sign Agreement with Government**

On 13 May, leaders of the victims of pesticide poisoning and the members of the Bolaños cabinet signed a 19-point agreement benefiting those affected by exposure to Nemagon and Fumazone.

Approximately 5,000 protestors camped in front of the National Assembly for 73 days in order to pressure the government to sign an agreement with the leaders of the victims who were exposed to the agrochemicals while working in the banana and sugarcane industry in the '60s, '70s and '80s (Vol. 24, No. 4).

The 19-point agreement includes guaranteed healthcare for the victims as well as housing projects for those former workers who are homeless. Another part of the agreement calls for environmental studies to be conducted where the victims live in order to assess possible strategies of preventing environmental contamination. The Bolaños administration also assured the leaders that 300 coffins would be sent annually to victims' communities.

The government increased the number of passports and visas to be issued from 36 to 80 in order for victims to travel to the US and testify against Dole, Dow and Shell, the three companies who manufactured or used the now-banned substances.

Víctor Espinales, a leader of the victims, said that 300 people would stay behind at the National Assembly as to ensure the government's compliance with the signed agreement.

### **Primary Election Law Proposed**

On 26 May, the Institute of International Republicanism (IRI) presented a citizens initiative to the National Assembly that would obligate parties to choose presidential candidates through primary elections. The proposal requires that the parties hold primaries through universal, free, direct and secret voting. According to the initiative, the Supreme Electoral Council would organize the primaries and it would resolve any conflicts that arise during the process.

Representatives of the PLC said that their presidential candidates will be selected by a vote at their party conventions and not through primary elections, as stipulated in article 84 of its statutes.

Elías Chéves, a political secretary of the FSLN in Managua, said the initiative is aimed at destroying the strongest parties in Nicaragua. Daniel Ortega of the FSLN confirmed in Mar that “primaries have brought lots of problems, much contradiction and much erosion.” Polls conducted in early Jan suggest that 84.3% of nearly 2,000 possible voters think that Ortega should resign from politics and let someone else lead the party (Vol. 24, No. 1).

Rosa Marina Zeyala, a member of the IRI, said that statistics show that 79% of Nicaraguans think that their country does not have a well-functioning democracy.

Herty Lewites, who leads all potential presidential candidates in public opinion polls, along with his campaign manager Victor Hugo Tinoco, were expelled from the FSLN in late Feb after calling for democratic primaries within the FSLN. After they were expelled, Ortega was again named the FSLN’s presidential candidate (Vol. 24, No. 3).

Lewites said that if Ortega wanted to play dirty, he too could play dirty and had surprises he had not yet decided to use. Lewites’ was likely referring to his appearances before the General Accounting Office (GAO) on 24 and 26 May where he defended his allegedly illegal land transactions while mayor of Managua.

Lewites is still trying to run on the FSLN ticket and held a gathering in front of the Convention Center in Managua on 22 May that included 713 members of the FSLN assembly from five districts. He is calling his group “the movement to revitalize *Sandinismo*,” which wants to open the FSLN to his candidacy through primary elections.

The main goals of Lewites’ movement are to reject the current pact between the FSLN and the PLC, create a primary system, combat corruption, abolish presidential reelection and end the impunity of the powerful. He also announced a plan to make an alliance with a diverse group of opposition parties in order to fortify his position.

If Lewites cannot run on the FSLN ticket, many in the Sandinista Renovation Movement (MRS) believe that with his enormous popularity he should run under the MRS banner.

—Alex Carney