

Trade Policy Review Body

TRADE POLICY REVIEW
NICARAGUA
Report by the Secretariat

III. trade policies and practices by measure

(2) Measures Directly Affecting Imports

(viii) **Government procurement**

51. Nicaragua is not party to the plurilateral Agreement on Government Procurement, although it had been an observer at the GATT Committee on this subject.⁶⁵ According to the authorities, consideration for future membership of the Agreement is to be given after new legislation in this area is passed (see below).

52. In 1996, the Nicaraguan public procurement market was estimated at more than C\$1.8 billion (US\$202 million), about 57% more than in 1994; expenditure for the purchase of goods and services grew faster on the part of the Central Government (by 72%) and public utilities enterprises (i.e. ENEL, INAA, ENITEL by about 48%).⁶⁶ The Central Government and the electricity company (ENEL), which generated 54.9% and 26.4% of the purchases, respectively, dominate procurement expenditure.

⁶⁵ WTO document L/7647, 1 November 1995.

⁶⁶ Data from various tables in BCN (1996).

Table III.2
State involvement in enterprises in Nicaragua, 1999

Firm	Activity	Degree of state ownership/Situation in privatization programme
GOODS		
Agriculture		
Empresa Nicaragüense de Alimentos Básicos (ENABAS)	Grain-buying agency	100%/privatization pending
Manufacturing (including food processing)		
Beneficio la Paz del Tuma ^a	Production of coffee	20% state ownership/..
Café Soluble, S.A. ^b	Production of instant coffee	2,225 shares (1.9%)/privatization pending
Fábrica de Vinagre de Occidente, S.A. (FAVINOC) ^b	Production of fruit based vinegars	100%/ privatization pending
Industrial Cervecera, S.A. (ICSA-TOÑA) ^b	Production of alcoholic beverages (beer)	11 shares/..
Compañía Licorera de Nicaragua, S.A. ^b	Production of alcoholic beverages	205 shares/..
Taller (TATASLI) ^c	Production of tobacco	100%/privatization pending
Cartonera Nicaragüense, S.A. ^b	Production of cardboard and cardboard packaging products	100%/privatization pending
Empaques Multiwal Ultrafort, S.A. (EMUSA) ^b	Production of cement bags and packaging of like products	68 shares/..
Concreto Pretensado de Nicaragua, S.A. (COPRENIC) ^b	Production of concrete material for building and construction	73% shares/..
NICALIT, S.A. ^b	Production of cement beams	22%/
Materiales y Construcción, S.A., (MAYCO) ^b	Production of prefabricated construction material (pavement and cement slabs)	../privatization pending
Productos de Concreto, S.A. (PROCON, S.A) ^b	Cement products	24,500 shares (35%)/..
Compañía Nacional Productora de Cemento (CANAL) ^b	Production of cement	97%/..
INCA	Production of nails and wire	28%/privatization pending
NICALUM	Production of aluminium profiles	100%/privatization pending
Laboratorios Unidos de Centroamérica, S.A. (LUCASA) ^b	Production of cosmetics and other pharmaceutical products	400 shares (7.3%) /..
Laboratorio Solka, S.A. ^b	Production of pharmaceutical products	3,171 shares (45.3%)/..
Hércules de Centroamérica, S.A. (HERCASA) ^b	Chemical plant	17.49% shares/..
Textiles del Lago, S.A. (TEXLASA) ^b	Textile production (for wrapping raw cotton or covering tobacco plantations)	100%/..
Sacos Centroamericanos, S.A. (SACSA) ^b	Production of all types of textiles (essentially jute and kenaf bags)	31 shares/..
Empresa Metalmecánica, S.A.(EMEMSA) ^b	Production of mechanical appliances for agricultural purposes	100%/..
Mining and Energy		
Empresa Nicaragüense de Electricidad, (ENEL)	Electricity production and distribution	100%/privatization planned in the year 2000
Empresa Petrolera Nicaragüense (PETRONIC)	Petrochemicals	../privatization plans announced in 1996
SERVICES		
Communications		
Empresa Nicaragüense de Telecomunicaciones (ENITEL)	Telecommunications	100%/privatization rescheduled several times since 1996
One television station	Broadcasting	../..

Table III.2 (cont'd)

Financial services		
Banco Nicaragüense de Industria y Comercio (BANIC)	Bank for trade and industry	100%/privatization under way, 35% of shares to be maintained by the State
Banco de Crédito Popular	Second-tier investment bank	../..

Firm	Activity	Degree of state ownership/Situation in privatization programme
Fondo Nicaragüense de Inversiones	Investment fund	../..
Instituto Nicaragüense de Seguros y Reaseguros (INISER)	Insurance company	../..
(BAVINIC)	Brokers agency	../..
Transport		
Empresa Nacional de Puertos (ENAP) [†]	Portuary services	../..
Other		
Instituto Nicaragüense de Acueductos y Alcantarillados (INAA)	Water supply and drainage facilities	../..

.. No information available.

Note: Corporations cited below form part of CORNAP.

a Corporación Nicaragüense del Café (CAFENIC).

b Corporacion Industrial del Pueblo (COIP).

c Corporación Nicaragüense del Tabaco (TABANIC).

Source: Information provided by the Nicaraguan authorities.

53. Government procurement is governed by legislation dating back to 1981; new implementing regulations were passed in 1991.⁶⁷ Three procurement or contracting procedures are available: public tender (for threshold values less, equal to or over C\$2.3 million (about US\$195,000))⁶⁸; closed/private bidding (for threshold values less or equal to C\$2.3 million (about US\$195,000))⁶⁹; direct contracting (for threshold values equivalent to or below C\$460,000 (about US\$39,000)).⁷⁰ Threshold values are adjusted according to the depreciation rate of the córdoba (Chapter I(2)(iv)). Whenever a project is financed, even partially, with external funds (e.g. from international financial institutions), bids are conducted according to the procedures of the financing organization; 45%-70% of government projects are financed through bilateral assistance, which is often tied to procurement from companies in donor countries. National treatment is granted to foreign bidders legally represented in Nicaragua.

54. Notices of public tenders are published in the *Official Journal* and the two newspapers with the largest circulation. An evaluation committee makes a recommendation to the minister concerned and the decision is communicated in writing to all bidders; a revision committee examines appeals. The total time of the formal bidding process (excluding appeals) must not exceed two months.

55. Firms interested in participating in tenders must either pre-qualify or register with each ministry. Each public entity must open its registry to new participants every six months; specific requirements apply to firms wishing to pre-qualify and be registered. Foreign firms must have a local legal representative and be registered as a legal entity in Nicaragua.

⁶⁷ Law of Administrative Contracting by the State, Decentralized or Autonomous Agencies, and Municipalities, Decree 809, 28 August 1981; implementing regulations Reglamento General de la Ley de Contrataciones Administrativas del Gobierno Central) Ministerial Agreement 60-91, 6 November 1991; and Ministerial Agreement 22-99, 9 April 1999.

⁶⁸ In addition to threshold value requirements, public tenders are required for contracts fully funded by the Government. Participation in tenders for turnkey contracts requires prior authorization from the Comptroller General's Office.

⁶⁹ Under the closed/private bidding process, the relevant public entity must request bids directly, from at least three bidders, without publishing the tender. Bidders have to submit their bids in half the time set for public tenders.

⁷⁰ Under this procedure public entities can procure goods and services directly, after soliciting three quotations, if procurement is made between public entities, for automobile repair, through an auction, or through leasing from abroad. The Comptroller General's Office may approve direct purchases exceeding the threshold value of C\$300,000 when: (i) the purchasing agency effectively demonstrates that only one supplier can meet its requirements or there is an urgent need for the purchase; (ii) there is a shortage of goods; and (iii) there are no bidders in a public tender.

56. Bids require a bid bond, ranging from 2% to 5% of the value of the contract, obtained through a local insurance company or private bank. For construction and equipment contracts, bidders must include a performance guarantee ranging from 20% to 30% of the value of the contract. Goods must be insured up to 110%.

57. Although, in the past, procurement was allegedly marred by irregularities, the authorities are committed to improving transparency and streamlining the process. In recent years, the authorities have been working on revisions to the procurement law and its implementing regulations with a view to, *inter alia*, addressing inconsistencies in their provisions. The latest draft revision was prepared with the assistance of the Inter-American Development Bank and was before the National Assembly by July 1999. Its provisions, which promote transparency and competition among suppliers, are based on international standards extended to contractors, public sector rentals and public sector employment. It provides, *inter alia*, for a centralized database and tracking system on suppliers and purchases, and an inventory of goods and services in different government entities. No regulations exist in this area but the authorities have indicated that they intend to negotiate a Central American treaty on government procurement.