

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE U.S. TRADE REPRESENTATIVE

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SECTION 301 INVESTIGATION: NICARAGUA'S ACTS,
POLICIES, AND PRACTICES REGARDING LABOR RIGHTS,
HUMAN RIGHTS, AND RULE OF LAW

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THURSDAY
JANUARY 16, 2025

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The Public Hearing convened at the
U.S. International Trade Commission, 500 E Street
SW, Washington, D.C., at 10:00 a.m. EST, Megan
Grimball, Panel Chair, presiding.

PRESENT

MEGAN GRIMBALL, USTR, Panel Chair
LEIGH BACON, USTR
WILLIAM (STU) HUFFMAN, Department of State
KAYLA SAVAGE, Department of Commerce
SUMMER SILVERSMITH, Department of Labor
TYLER VAN PATTEN, Department of the Treasury

WITNESSES PRESENT

JUAN SEBASTIÁN CHAMORRO GARCÍA
MANUEL OROZCO, The Inter-American Dialogue
ANÍBAL TORUÑO, Radio Darío
JEAN MARC BRISSAU, Notre Dame Law School Global
Human Rights Clinic, on behalf of Amaru Ruiz
Alemán, Fundación del Río
JOSEMARIA RODRIGUEZ CONCA, Notre Dame Law School
Global Human Rights Clinic
BARRY APPLETON, on behalf of Riverside Coffee
DOLILFA REBECA MORA, on behalf of Max Jerez,
Nicaraguan University Alliance

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ROSALÍA GUTIÉRREZ-HUETE MILLER, on behalf of
Eliseo Nuñez, Concertación Democrática
Nicaragüense
LÉSTHER LENIN ALEMÁN ALFARO, Nicaraguan
University Alliance
LEONARDO PASTOR, Mesa de Concertación
Democrática
JESSENIA VALESKA VALLE DUARTE, Movimiento
Universitario 19 de Abril
YUBRANK SUAZO HERRERA, Civic Alliance for
Justice & Democracy
JULIO MARTÍNEZ, Expediente Abierto, Fundación
del Río, and the Patrol Campaign
ANEXA ALFRED, Indigenous Peoples Rights
MEDARDO MAIRENA SEQUEIRA, Movimiento Campesino
de Nicaragua

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P-R-O-C-E-E-D-I-N-G-S

(10:02 a.m.)

CHAIR GRIMBALL: Good morning, and welcome. The Office of the United States Trade Representative, in conjunction with the interagency Section 301 Committee, is holding this public hearing in connection with the Section 301 investigation of Nicaragua's acts, policies, and practices related to labor rights, human rights, and rule of law.

The United States Trade Representative initiated this investigation on December 10th, 2024, pursuant to Section 302(b)(1)(a) of the Trade Act of 1974 as amended. The Federal Register notice published on December 13th, 2024, announcing the initiation of this investigation also invited written comments and announced this hearing.

The December 13th notice invited comment on whether the issues covered in the investigation are actionable under the statute. Actionable matters under Section 301 include

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1 acts, policies, and practices of a foreign
2 country that are unreasonable or discriminatory
3 and burden or restrict U.S. commerce. The
4 December 13th notice is available on the USTR
5 website under the Section 301 Investigations page
6 and is published in the Federal Register at 89
7 Fed Reg 101088.

8 The purpose of this hearing is to
9 receive public testimony regarding the issues
10 raised in the December 13th notice. The Section
11 301 Committee will carefully consider today's
12 testimony and all written comments in response to
13 the Federal Register notice, including
14 post-hearing rebuttal comments. Post-hearing
15 rebuttal comments are due January 23rd, 2025, and
16 should be limited to rebutting or supplementing
17 testimony at this hearing.

18 At the outset, I would state that the
19 subject matter of this investigation is unique
20 from any other investigation we have conducted
21 under Section 301 of the Trade Act. Indeed, this
22 is the first ever investigation under Section 301

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1 to investigate acts, policies, and practices that
2 may violate labor rights, human rights, and
3 dismantle the rule of law that may burden U.S.
4 commerce.

5 Given the uniqueness of this
6 investigation, we recognize that many of you will
7 speak today about very personal experiences in
8 Nicaragua, including harassment by the police,
9 arrest and imprisonment, cruel, inhumane, and
10 degrading treatment and torture while a prisoner,
11 and the banishment and revocation of your
12 nationality. We appreciate that you are willing
13 to share these very personal experiences publicly
14 for purposes of this investigation.

15 While we will carefully consider such
16 testimony, please note that we also intend to ask
17 questions to further understand how the
18 information provided here today may relate to the
19 statutory criteria under which all this
20 information must be considered.

21 After the Section 301 Committee has
22 completed its investigation, the Committee will

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1 make a recommendation to the U.S. Trade
2 Representative on whether the acts, policies, and
3 practices are actionable under the statute. If
4 it is determined under the statute that the acts,
5 policies, and practices are actionable, the Trade
6 Representative will determine whether further
7 action is appropriate and, if so, what action to
8 take, which would involve an additional notice
9 and comment period.

10 We are pleased to have international
11 trade and economic experts from a range of U.S.
12 government departments and agencies here this
13 morning. If you would please introduce
14 yourselves.

15 MR. VAN PATTEN: Tyler Van Patten,
16 Department of Treasury.

17 MS. SAVAGE: Good morning. Kayla
18 Savage, Department of Commerce.

19 MS. BACON: Good morning. Leigh
20 Bacon, Office of the U.S. Trade Representative.

21 MS. SILVERSMITH: Summer Silversmith,
22 U.S. Department of Labor.

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1 MR. HUFFMAN: Stu Huffman, U.S.
2 Department of State.

3 CHAIR GRIMBALL: And I am Megan
4 Grimbball, the Chair of the Section 301 Committee.
5 At this time, I'm going to go over some
6 procedural and administrative instructions.

7 Today's hearing will be conducted in
8 English. If you are unable or uncomfortable
9 providing your testimony in English, we ask that
10 you submit your testimony or response to any
11 questions of the Panel in writing with an English
12 translation.

13 The hearing is scheduled for one day,
14 today, Thursday, January 16th. The December 13th
15 notice indicated that post-hearing comments will
16 be due seven days after the public hearing.
17 Again, that is January 23rd, 2025.

18 Today we will have three panels of
19 witnesses, with 15 individuals scheduled to
20 testify, and the provisional schedule has been
21 posted to the USTR website. We will have a brief
22 break in between each panel, and we'll take a 15

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1 -- a 50-minute, excuse me -- lunch break from
2 12:30 to 1:20, or thereabout, depending on the
3 flow of today's hearing.

4 Each witness appearing today is
5 limited to five minutes of oral testimony. The
6 light before you will be green when you begin
7 your testimony. Yellow means you have one minute
8 left, and red means your time has expired.

9 After the testimony from each panel of
10 witnesses, the Section 301 Committee will have an
11 opportunity to ask you all questions. All
12 questions will be from department or agency
13 representatives. There will be no questions
14 accepted from the floor. Committee
15 representatives will generally direct their
16 questions to one or more specific witnesses.

17 Again, post-hearing comments,
18 including any written responses to questions from
19 the Committee, are due on January 23rd. The
20 rules and procedures for written submissions are
21 set out in the December 13th notice.

22 Given the number of witnesses and the

1 schedule, we request that witnesses, when
2 responding to questions, be as concise as
3 possible. We likewise ask witnesses to be
4 understanding if and when the Chair asks that a
5 witness conclude their testimony or response. In
6 this regard, witnesses should recall that they
7 will have a full opportunity to provide more
8 extensive responses in their post-hearing
9 submissions.

10 No cameras or video or audio recording
11 will be allowed. If you are observed using
12 cameras, a member of our staff may ask you to
13 discontinue use. A written transcript of this
14 hearing will be posted on the USTR website as
15 soon as possible after the conclusion of today's
16 hearing.

17 We are now ready to begin.

18 MS. THOMPSON: Panel 1, we have Juan
19 Sebastián Chamorro Garcia.

20 DR. CHAMORRO: Thank you very much,
21 and good morning. Since 2018, as a member of the
22 opposition, I have faced countless threats,

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1 beatings, and persecution from government
2 sympathizers, paramilitaries, and the police.
3 Without a warrant, I was prohibited from leaving
4 the country, then from leaving the capital city,
5 and finally to leave my own house.

6 In January 2021, under harsh
7 conditions of repression, I announced my
8 candidacy for the presidency of Nicaragua in the
9 November elections. On the night of June 8th,
10 2021, dozens of police officers stormed my house,
11 arbitrarily arrested me, and took me to prison.

12 While in prison, I endured enforcement
13 disappearance for three months. I was denied
14 family visits, any form of communication, and
15 access to legal counsel. I was sentenced to 13
16 years in prison for so-called crimes against the
17 homeland. Despite my lawyer explaining all the
18 legal avenues, the Nicaraguan legal system, an
19 instrument of repression, ignored all my
20 arguments.

21 In February 2023, the Ortega
22 dictatorship banished me and 221 other political

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1 prisoners from the country, stripping us of our
2 Nicaraguan nationality. I have filed an
3 international petition to hold the State of
4 Nicaragua accountable for violating my political
5 rights, freedom of expression, association,
6 personal liberty, and integrity, as well as
7 subjecting me to torture and cruel, inhuman, and
8 degrading treatment. I have also accused the
9 State of violating my right to religion, health,
10 judicial guarantees, justice, nationality,
11 movement, residence, honor, dignity, and private
12 property.

13 Both as a victim and activist, I have
14 witnessed the erosion and destruction of the rule
15 of law in my country. The violations I endured
16 are part of the systematic pattern inflicted to
17 all Nicaraguans. The new constitution being
18 pushed by the regime eliminates the separation of
19 powers. International treaties are excluded from
20 the legal framework, allowing the country to
21 ignore commitments on trade, labor rights, human
22 rights, and more.

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1 Union leaders I have met confirmed
2 that their rights have been systematically
3 infringed. The Ortega regime has dismantled
4 several labor unions. Testimonies reveal
5 blacklisting, unjust firings, and the absence of
6 legal recourse with workers too afraid to protest
7 for fear of retaliation.

8 As Executive Director of FUNIDES, a
9 think tank illegally dissolved in 2022, we
10 documented numerous business complaints, tax
11 pressures, extortions, and exaggerated fines are
12 now the norm. Most companies in Nicaragua are
13 under constant tax audits with no avenue for
14 independent assessment. They must simply pay
15 whatever the government demands. Even American
16 companies are barred from governing procurement
17 processes, which are now reserved for vendors
18 from China -- have evidence of that.

19 I witnessed the legal dissolution of
20 an entire array of employers' organizations,
21 which once played a crucial role in promoting
22 investment and defending investors. Investors

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1 now are at the mercy of a regime focused on
2 extracting illegal revenues through taxes.

3 My own family experience is
4 emblematic. My wife's properties in Managua were
5 illegally expropriated through fraudulent legal
6 process and tax extortions. This harassment
7 mirrors the plight of thousands of business
8 owners who remain silent out of fear.

9 Members of the Panel, for commerce to
10 thrive and investment to flourish, any economy
11 requires five basic conditions: property rights,
12 rule of law, sound fiscal policies, labor rights,
13 and the rights of employers to associate. None
14 of these exist in Nicaragua. Investors face
15 confiscations. Courts are weaponized for
16 oppression. Taxes serve as extortion. Labor
17 rights are violated, and employers are denied the
18 right to organize.

19 You might ask, if conditions are so
20 terrible, why aren't investors filing complaints
21 against the Ortega regime? The answer is fear.
22 Today you are hearing from victims of abuse who

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1 have lost everything. We speak on behalf of
2 those too afraid to raise their voices because
3 doing so could lead to imprisonment or
4 banishment, consequences that we have personally
5 endured. Thank you very much.

6 MS. THOMPSON: Thank you.

7 Our next panelist is Manuel Orozco of
8 the Inter-American Dialogue.

9 DR. OROZCO: Good morning, and thank
10 you to the Committee for making the space for
11 this testification on the investigation of
12 Nicaragua. My testimony responds to questions
13 about evidence regarding actionable matters from
14 Nicaragua's political practices tied to
15 dictatorial infrastructure to constitute
16 unreasonable or discriminatory and burden or
17 restrict U.S. commerce.

18 The country's practices facilitate
19 unfair competition favorable to the
20 Ortega-Murillo regime. First, the regime crafted
21 an architecture of power consisting of five
22 pillars, namely international isolation, monopoly

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1 of force, state capture, criminalization of
2 democracy, and propaganda.

3 As part of the criminalization of
4 democracy, the Government of Nicaragua dismantled
5 the rule of law, including changing the
6 constitution to concentrate power and eliminate
7 institutional checks and balances. There is no
8 independence in the country's legislature or
9 judiciary system.

10 The effects of this include
11 consequences to the United States. For example,
12 the recently approved sanctions law forces
13 financial institutions to not recognize or obey
14 international and UN sanctions on individuals
15 that have committed transgressions, including
16 human rights and financial crimes. They are
17 threatened to face penalties and accusations of
18 treason if they don't follow that law.

19 The law raises a red flag among U.S.
20 banks, putting the country and its financial
21 institutions and transactions, including trade
22 settlements (phonetic) and money transfers, at

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1 high financial risk. Another example is how the
2 regime turned an actionable practice of migration
3 as a threat to essential security interest,
4 directly violating Articles 21 of the General
5 Agreement on Trade and Tarriffs as well as the
6 CAFTA, the Central American Free Trade Agreement,
7 Article -- or Chapter 21.

8 It weaponized migration as a means to
9 directly affect the U.S. national interest,
10 allowing the country to operate as a bridge for
11 regular migration through thousands of chartered
12 flights, for which we accounted at least 70,000
13 people using those flights to go to Nicaragua and
14 then come to the United States.

15 Second, as part of the political
16 orientation that Nicaragua has funneled through
17 the system, it has committed a number of human
18 rights violations against citizens of Nicaragua
19 and foreign residents, including U.S. nationals.
20 Nicaragua has faced systematic range of
21 violations. Ninety percent of civil society has
22 been eliminated or banned. There is widespread

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1 religious persecution. Over 300 journalists have
2 been expelled out of the country, as well as
3 practically all the media, independent media
4 outlets, have been banned from the country.

5 There is expropriation of small and
6 large businesses that have taken place since
7 2018. Police persecution in the street is a
8 regular practice. The elimination of NGOs, for
9 example, reduced foreign assistance to at least
10 \$100 million, affecting over one million people
11 or beneficiaries, reduced employment of at least
12 20,000 people, and it affected several U.S.
13 philanthropic and charitable organizations
14 operating in the country.

15 This in itself constitutes a
16 discriminatory practice. The expulsion of
17 Nicaraguans, which led to a large migration wave
18 to the United States and an inflow -- an outflow
19 of remittances rescuing Nicaraguan economy from
20 poorly performing regime created a burden put on
21 Nicaraguans and the U.S. economy to rescue the
22 Nicaraguan economy during these times.

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1 Expropriation and denial of
2 citizenship have curtailed all kinds of plans and
3 opportunities for Nicaraguans affected. They
4 will not be able to retire or establish business
5 activities in both countries.

6 Third, the Government of Nicaragua has
7 committed or allowed violations and abuses of
8 international recognized labor practices. These
9 include arbitrary firing practices, working
10 longer hours, hours between 12 and 15 hours a
11 day, and unfair pay and wage deductions have
12 taken place in the country.

13 There is also tax extortion, which
14 also refer to physical harassment against
15 businesses that establish relationships or
16 business activities with businesses and
17 operations in the free trade zone.

18 Overall, the regime has acted with
19 premeditation, means, and motive to impress
20 actions against Nicaraguan citizens and the
21 United States. This includes the premeditated
22 expulsion of Nicaraguans to the United States.

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1 It includes systemic labor relations that have
2 enhanced trade relations with the United States.
3 At this point, Nicaragua's annual growth between
4 2018 and 2024 is greater than any other member of
5 the Central America Free Trade Agreement to the
6 expense of the Nicaraguan labor rights
7 violations. Thank you very much.

8 MS. THOMPSON: Thank you.

9 Our next panelist is Anibal Toruño of
10 Radio Darío.

11 MR. TORUÑO: Thank you very much. On
12 April 20, 2018, Radio Darío building in the City
13 of Leon was set on fire while the staff was
14 working inside the radio station. Although we
15 were able to evacuate it before the building
16 collapsed, our lives were seriously threatened.

17 The perpetrators were known operatives
18 of the Sandinista National Liberation Front, a
19 group of paramilitaries armed with war weapons,
20 balaclavas, and fuel drums to set the station on
21 fire. The attack left the security guard
22 seriously injured and destroyed the radio and all

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1 the equipment of the Radio Darío studio.

2 More than five years after these
3 events occurred, the State has not carried out
4 any investigation that would lead to identifying,
5 prosecuting, and if it's necessary, punishing
6 those responsible as well as compensating for the
7 damage caused by the destruction of Radio Darío
8 and the lost job for more than 10 workers.

9 In May 2018, individuals dressed as
10 soldier with their faces covered with armed AK-47
11 rifles, stole the radio transmitter equipment in
12 the power generating plant. On June 13, 2018,
13 hooded individuals armed with AK rifles
14 surrounded my house in the city, preventing me
15 and my family leaving the house.

16 On December 2018, the new temporary
17 facility for the radio station were raided by the
18 police. During the operation, we were ordered to
19 cease the transmission, and much of the radio
20 equipment was seized. Several of the radio
21 station employees were interrogated. Journalists
22 Francisco Torres and four others were also

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1 detained for several hours.

2 We continued to work and managed to
3 keep Radio Darío on the air. On June 2019, four
4 police units with about 20 members of the special
5 operation forces and the national police
6 surrounded the radio station facility for at
7 least 45 minutes. The officials went inside and
8 destroyed media equipment again.

9 In September 2018, upon my return from
10 exile, paramilitary besieged my house. Armed men
11 on motorcycles with helmets to avoid being
12 identified robbed my home, intimidated and
13 threatened with their gun if anyone do not obey
14 the orders. They left graffiti on the walls of
15 my home prescribing threats and death. They went
16 few blocks away and surrounded the radio station.

17 On the morning of the same day, during
18 my visit to the facility Radio Darío, I was
19 persecuted and attacked. At the time, I was with
20 several members of the Ortega's opposition, a
21 movement called Civic Alliance for Justice and
22 Democracy. The paramilitaries attacked them with

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1 sticks, stones, and bullets.

2 June the 2021, I had to make one of
3 the hardest decisions of my life. I left the
4 country. I was no longer safe, and my family was
5 under constant attack and numerous threats by the
6 Sandanista's authorities and their supporters.

7 From neighboring Costa Rica, I kept
8 working remotely, but that would soon change. On
9 2022, I was notified by telecommunication
10 authorities that the operations license that
11 allowed Radio Darío to transmit on 89.3 FM in the
12 city and the rest of the country, was being
13 cancelled permanently. With that, the
14 dictatorship closed Radio Darío. Radio Darío had
15 been part of the City of Leone in Nicaragua since
16 my father founded it in 1949. And after 73 years
17 on the air, the frequency of Radio Darío went
18 silent.

19 I was also notified of the
20 cancellation of the second and third low profile
21 station owned by myself. On February 2023, the
22 country of Nicaragua, by resolution of the

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1 Sandanista judge -- the Managua District Criminal
2 Court ordered that I be stripped of my
3 nationality and citizen right in perpetuity,
4 along with 93 other Nicaraguans.

5 We were accused by the Public Ministry
6 of the alleged crime of treason to the homeland.
7 In addition, the order was issued to immobilize
8 and confiscate in favor of the state all the real
9 estate we own. In March the 2023, I denounced to
10 the authorities of Nicaragua expropriated our
11 homestead, which was registered as belonging to
12 my children.

13 During the same month, the State of
14 Nicaragua ordered the local bank to block my
15 three bank accounts. To this day, for security
16 reasons, I cannot mention journalists who are
17 still behind bars.

18 After six and a half years, my family
19 and I, radio journalists, and collaborators
20 continue to seek justice for those who destroyed
21 our life, imprisoned, persecuted, attacked, and
22 forced our family to live in exile, which in

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1 itself is like a long arm representation of the
2 Daniel Ortega regime.

3 Today, Darío Medios Internacional
4 after 76 years, we continue to overcome the
5 censorship, which is why, on behalf of the
6 journalists and media outlets that have been
7 closed, I have made the decision to come and
8 publicly testify with the strength and
9 determination to denounce the horror and the
10 tragedy that Daniel Ortega has imposed us. Thank
11 you very much.

12 MS. THOMPSON: Thank you.

13 Next on our panel is Notre Dame Law
14 School Global Human Rights Clinic on behalf of
15 Amaru Ruiz Alemán, Fundación del Rio.

16 MR. BRISSAU: Dear members of the
17 Committee, thank you very much for this
18 opportunity to testify about human rights
19 violation that has been committed by Daniel
20 Ortega's regime in Nicaragua.

21 My name is Jean Marc Brissau. I'm the
22 staff attorney at the Global Human Rights Clinic

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1 at Notre Dame Law School, together with my
2 colleague Josemaría. We are legal counsel for
3 our client, Amaru Ruiz Alemán. Amaru Ruiz has
4 authorized me to speak on his behalf before you
5 today.

6 Mr. Ruiz is a Nicaraguan citizen in
7 exile and former president of a non-governmental
8 organization called Fundación del Rio, known for
9 its work on environmental protection and human
10 rights.

11 Fundación del Rio is one of 5,000
12 organizations whose legal existence was
13 arbitrarily terminated and assets confiscated
14 wholesale, all without due process or any form of
15 legal redress afforded to these organizations and
16 their personnel as a result of the measures taken
17 by the Nicaraguan regime and by President Daniel
18 Ortega and his wife, Co-President, Rosario
19 Murillo.

20 Fundación del Rio is a not-for-profit
21 organization established in 1990, dedicated to
22 the preservation and protection of territorial

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1 and natural resources, as well as the promotion
2 of and defense of the right of Indigenous
3 populations, Afro-descendent communities, and
4 peasant communities.

5 The cancellation of the foundation and
6 legal personhood was -- as has been the case for
7 the overwhelming majority of the cancelled NGOs
8 -- without any due process of law or guarantee of
9 individual or collective rights. Fundación del
10 Rio was subjected to the arbitrary, abrupt, and
11 unilateral cancellation of its legal status and
12 confiscation of assets.

13 Effective only upon the directive of
14 the Minister of Governance, the Minister alleged
15 that the organization, along with others, had
16 been involved in supporting the failed coup
17 attempt in the wake of the social movement in
18 April 2018. Neither Mr. Ruiz or any other member
19 of the organization were given opportunity by the
20 Ministry to legally challenge these allegations.

21 The government moved and proceeded to
22 forcibly confiscate all assets of the foundation

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1 without legal proceedings and due process. The
2 government seized all of the foundation's assets,
3 including offices, community radio stations,
4 reforestation sites, and conservation areas.

5 It also seized Mr. Amaru Ruiz's
6 properties, and he himself suffered from human
7 rights violations and persecutions. These
8 included infringements on his right to freedom of
9 association, property, due process, equal
10 protection under the law, fair trial, judicial
11 protection, right to work, freedom of movement
12 and residence, freedom of thought and expression,
13 and the right to nationality.

14 In addition to confiscating the bank
15 account of the organization, the Murillo regime
16 also confiscated and froze his bank account. The
17 persecution he suffered at the hands of the
18 government forced him into exile. He now lives
19 under refugee status in Costa Rica.

20 The Ortega-Murillo regime deployed
21 Nicaragua's judicial system as a tool of
22 oppression against Mr. Ruiz in falsely initiating

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1 two procedures, one for the alleged crime of
2 conspiracy to undermine national integrity, and
3 the other one for the alleged crime of
4 propagating false news through information and
5 communication technologies. It's all based on
6 Article 30 of the Special Law on Crimes and
7 enforced in December 2020.

8 Mr. Ruiz was not allowed to
9 meaningfully challenge the legality of the
10 persecution initiated against him that stripped
11 him of his nationality and which makes him
12 stateless. The accusation leveled against Mr.
13 Ruiz is inextricably linked to his legitimate
14 activities as a human rights advocate, especially
15 because of his efforts to expose and denounce the
16 Nicaraguan government systemic abuses and
17 violation of the right of Indigenous people
18 within the country.

19 The second process was initiated in
20 absentia, which means that even after he had left
21 Nicaragua, he was still victim and being
22 persecuted by the regime. The situation of Mr.

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1 Ruiz is one of the many cases of persecution by
2 Nicaraguan regime and shows the weaponization of
3 the judicial system to persecute those who are
4 considered dissidents.

5 We respectfully submit this testimony
6 for the Committee's consideration under the
7 ongoing Section 301 investigation against
8 Nicaragua. Thank you.

9 MS. THOMPSON: Thank you.

10 Our last panelist is Barry Appleton on
11 behalf of Riverside Coffee.

12 DR. APPLETON: Thank you very much.
13 I'm Professor Barry Appleton. I'm joined here
14 with Lillian De Pena, who is an international
15 legal counsel at Appleton & Associates. We
16 represent Riverside Coffee. Riverside Coffee is
17 a U.S. corporation that has invested in Nicaragua
18 in the agricultural sector for more than 25
19 years.

20 We have actual factual evidence on
21 matters before this interagency Committee and the
22 USTR, and we thank you for the opportunity to

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1 appear on these very significant issues today.

2 The Republic of Nicaragua has a trade
3 agreement with the United States, the DR-CAFTA.
4 Our testimony highlights egregious violations by
5 Nicaragua in contravention of CAFTA and U.S.
6 trade interests. These violations undermine the
7 international rule of law, peace and security,
8 and present an ongoing threat to U.S. investors
9 operating under CAFTA. Nicaragua's foundational
10 disrespect for liberty, human rights, and other
11 rights impairs U.S. commerce.

12 Now, in the summer of 2018,
13 state-sponsored armed groups acting violently
14 seized Hacienda Santa Fe, a 3,000-plus acre Hass
15 avocado plantation that was the investment of
16 Riverside Coffee. This long-standing investment,
17 representing decades of development, had
18 significant U.S. investment and management. At
19 harvest time, the facility had worker housing for
20 over 1,500 employees, to give you a sense of the
21 scope and the scale of what we're talking about.

22 Riverside asked for police protection

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1 against the armed invaders, but the police
2 refused to take diligent or timely steps to
3 protect the Americans against these physical
4 threats to public safety. Local police stood by,
5 refusing to intervene, despite the violence,
6 death threats against management, looting, and
7 massive environmental degradation of rare
8 hardwood forests.

9 Riverside's commercial Hass avocado
10 plantations were destroyed. Now, eventually,
11 Nicaragua put its name on the legal title to the
12 local lands and created a community forest
13 nursery on Riverside's lands, in violation of the
14 rule of law. No notice was given. No
15 compensation was offered. Riverside's personnel
16 endured violent assaults and death threats, cruel
17 and inhumane treatment, driving many of them into
18 exile.

19 Nicaragua's measures violate CAFTA's
20 protections against uncompensated expropriation
21 and the requirement to provide full protection
22 and security and fair and equitable treatment,

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1 and also violates nondiscrimination provisions.

2 Riverside commenced a Chapter 10
3 investor state process under the CAFTA. A public
4 hearing took place in July of 2024. Extensive
5 evidence of Nicaragua's CAFTA treaty
6 inconsistencies impacting American business is
7 available in that public record, and an award is
8 expected this year in that matter.

9 But the record and the findings
10 provide significant opportunities for this
11 interagency Committee and the USTR to be able to
12 consider the issues and carry out its mandate.
13 Nicaragua admitted, for example, that they
14 provided no police protection to Riverside while,
15 at that very same time, providing local
16 investments in Nicaragua with police protection
17 at the same time in the same circumstances.

18 As detailed in Riverside's comments,
19 Nicaragua's admissions and findings issued by the
20 tribunal itself confirmed violations of due
21 process and the significant erosion of the rule
22 of law. These are admissions, as well, in that

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1 record of serious human rights violations and the
2 clear violations of international law and trade
3 agreements, which we believe is material for this
4 Committee. These violations go beyond trade.
5 They include breaches of human rights. And these
6 are all noted in our written submissions.

7 Nicaragua's actions have inflicted
8 millions of dollars in losses on Riverside.
9 They've destroyed livelihoods and created a
10 hostile environment for U.S. companies. Such
11 lawlessness undercuts the stability and
12 practicability that CAFTA was designed to
13 guarantee, deterring future U.S. investments and
14 trade in the region.

15 And I want to just briefly talk about
16 Section 301 because Section 301 addresses
17 unreasonable and discriminatory foreign acts that
18 burden U.S. commerce. And Nicaragua's conduct
19 meets every threshold under the statute, whether
20 we're talking about Section 301(a)(1) or (b).
21 And we respectfully urge the USTR to consider our
22 facts when it's dealing with its consideration.

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1 Now, we've made no sanction
2 recommendations here other than to underscore
3 that given the pervasive erosion of the rule of
4 law in Nicaragua, this interagency body and the
5 USTR should consider it advisable to have robust
6 and enhanced CAFTA compliance-monitoring
7 mechanisms to ensure accountability and CAFTA
8 trade treaty compliance because we cannot just
9 rely on the mere assertion of the Republic of
10 Nicaragua to act in good faith in these
11 extensively pervasive erosion of rule of law
12 situations.

13 And so we thank the USTR for your
14 attention today, and we stand ready to provide
15 any additional evidence to answer your questions.
16 Thank you very, very much.

17 MS. THOMPSON: Thank you. This
18 concludes Panel 1's testimony.

19 CHAIR GRIMBALL: Thank you for your
20 testimony this morning. At this time, we are
21 going to proceed to questions from the government
22 representatives.

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1 MR. VAN PATTEN: All right, well, I'd
2 like to thank all the panelists for their
3 testimony today. It's very well appreciated.
4 This first question will be directed for Dr.
5 Chamorro Garcia. I believe all of our questions
6 will start with Dr. Garcia and then go down each
7 of the panelists in the order you presented your
8 testimony.

9 Dr. Chamorro Garcia, our first
10 question for you, as an economist, how would you
11 assess the impact of the deterioration of rule of
12 law in Nicaragua on U.S. commerce, exports, and
13 investment in Nicaragua? And could you please
14 provide us with some examples of the opportunity
15 costs for U.S. firms incurred by the political
16 climate in Nicaragua after 2018? Thank you.

17 DR. CHAMORRO: Thank you. I will be
18 very brief, but to the final part of your
19 question, opportunity costs for lack of
20 investment is extremely difficult to measure
21 because we're talking about the investors that
22 are not willing any more to continue their

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1 investments or new investments to go ahead and go
2 through Nicaragua for investing in new
3 enterprises. So, this kind of contrafactual kind
4 of information is extremely difficult to assess.
5 However, we do have anecdotal evidence of lots of
6 investors who have seen the deterioration of the
7 rule of law and said there is no way of investing
8 in a country like Nicaragua.

9 You have also evidence of the loss of
10 jobs. You have Free Trade Zones and diminishing
11 amounts of investments from different sources.
12 In addition to that, the foreign assistance in
13 the forms of donations and loans have been
14 reduced considerably and the state of Nicaragua,
15 the regime has used financing from China. As my
16 colleague, Manuel Orozco was mentioning, the only
17 reason why the economy is growing at this moment
18 is the result of the remittances as a result of
19 more than 15 percent of the population live in
20 the country in the last 5 years.

21 MR. HUFFMAN: Thank you. My question
22 is also for Dr. Chamorro Garcia. Referring to

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1 the CISA Exportadora case you referred to in your
2 submission, how would you characterize the impact
3 of the Nicaraguan government's seizure of that
4 asset? What impact does this have on creditors
5 following the Mercon Coffee Group's bankruptcy
6 case filed in New York?

7 DR. CHAMORRO: I'm sorry, so the
8 question was about the CISA Exportadora? Yes,
9 this the largest export of coffee in the country.
10 They have commercial relationship with banks
11 internationally and as a result of some
12 difficulties that the company had worldwide, had
13 to close operations.

14 Now there were debtors, either both in
15 Nicaragua and international debtors that were
16 claiming to get some rights for the company to
17 continue operation. Basically what the regime
18 did was to manu militari invade the properties,
19 confiscated in an arbitrary way and leaving the
20 debtors without their rights. Pretty much the
21 same modus operandi that they implemented in the
22 case of Riverside.

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1 MS. BACON: My question is also for
2 Dr. Chamorro Your testimony mentioned the
3 Nicaraguan government's use of tax audits and
4 fines against companies in Nicaragua. Are you
5 able to elaborate on these situations and do you
6 have any particular examples of assets being
7 confiscated by the government due to an alleged
8 failure to pay fines?

9 DR. CHAMORRO: Absolutely. The
10 operation starts with a regular audit. I have to
11 say that most companies are under the services of
12 the tax administration agency. They come in.
13 They try to basically dump any cost from the
14 companies in order to reduce their profits and
15 they're extremely smart in making a fine because
16 there's always fining. They try to fine a
17 company in a way that make them pay the fine, but
18 not break their -- go bankrupt. So basically,
19 this is a very sophisticated system of extortion
20 that goes from export companies, investors and
21 real estate. So it's part of the persecution of
22 the private sector that we have seen throughout

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1 the economy.

2 So as a director of this economic
3 think tank, we obviously had lots of investors
4 who will come to the country and tell us about
5 the lack of conditions with regard to the tax
6 administration agency and the lack of capacity to
7 defend themselves. We were kind of a centerpiece
8 of receiving all these complaints because they
9 were also asking for asking for advice and
10 economic data. But this is a generalized
11 procedure that goes especially to large firms,
12 but it's not limited to large firms. This
13 extortion is throughout the economy.

14 Unfortunately, as I mentioned and this
15 is the way I wanted to finish my testimony today,
16 was that because of fear, all of these companies
17 prefer to pay the fine and not make any noise
18 about that for fear of retaliation. But when I
19 did that in my country, when I denounced the
20 persecution, the tax exposure to risk my family,
21 my daughter is an American citizen, many
22 investors, many business owners came to me and

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1 showed me lots of evidence of their own cases
2 that I was able to collect.

3 MS. SILVERSMITH: Dr. Chamorro, you
4 stated in your testimony that as a business owner
5 and opposition leader you have seen the decline
6 of labor unions and the infringement of labor
7 rights under the current government. Could you
8 please elaborate on how, in your experience,
9 labor rights in Nicaragua have been impacted by
10 the government since 2018?

11 DR. CHAMORRO: I can mention a couple
12 of examples. The first that comes to my mind is
13 the Maria Elena Cuadra labor union movement.
14 It's concentrated on the defense of the rights of
15 women in Free Trade Zone. This organization was
16 eliminated by the regime in 2022 and their
17 offices were stormed. This is just an example of
18 one labor union, a very large organization in the
19 Free Trade Zone and I wanted to relate that to
20 commerce in the U.S., with the U.S.

21 The reason why this movement was
22 banished, was eliminated, is because it was part

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1 of the wave of eliminating more than 5,000 NGOs,
2 as my colleagues had mentioned, but also because
3 they were consistently denouncing violations of
4 labor rights. About 30 percent of the workers in
5 the Free Trade Zone, for example, were
6 interviewed, and they didn't know anything about
7 their labor rights or they didn't know there was
8 a labor union within the company and they were
9 forced to only go to the bathroom like three
10 times a day. So all these reports are in the
11 web. And I'm sure the regime of Nicaragua saw
12 those reports as a threat to their own policies
13 or whatever, so they decided to close. This is
14 just an example of one labor union that I can
15 think of at this moment, but the list goes on, in
16 favor of pro-government, labor unions have been
17 in control of the labor movements for more than
18 40 years, very close to the Sandanista regime.

19 This obviously has also an impact on
20 the negotiation of the minimum wage because in
21 Nicaragua, the minimum wage used to be negotiated
22 between the Government of Nicaragua, the private

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1 sector, and labor unions. The private sector
2 doesn't exist anymore. Labor unions, independent
3 labor unions, don't exist anymore, so that's
4 another way of the government to control and to
5 pass legislation to pass minimum wages according
6 to what their interests are.

7 MS. SAVAGE: So, Dr. Chamorro Garcia,
8 in your view, has the elimination of the think
9 tank FUNIDES' legal status affected the business
10 environment in Nicaragua? If so, how?

11 DR. CHAMORRO: Can you repeat the
12 question, please?

13 MS. SAVAGE: Sure. In your view, has
14 the elimination of the think tank FUNIDES' legal
15 status affected the business environment in
16 Nicaragua? If so, how?

17 DR. CHAMORRO: I use FUNIDES as a
18 personal example because I was the Executive
19 Director, but I will refer to the elimination of
20 all the business chambers in Nicaragua. The
21 Nicaragua Chamber of Commerce, the Chamber of
22 Industry, the Nicaraguan Chamber of Commerce, and

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1 the Chambers of Commerce of Spain, Italy, and so
2 many other countries, and the elimination of
3 COSEP, the umbrella organization that used to
4 gather all these.

5 So when you do not have these types of
6 organizations, investors do not have anywhere to
7 go. They cannot go to FUNIDES for economic
8 information. They cannot go to look for support
9 from the Chamber of Commerce if something, some
10 rights of importation of their goods, for
11 example, are infringed. So, the absence of all
12 these institutions are extremely damaging for the
13 business environment, and that's the reason why
14 the World Bank has placed Nicaragua among the
15 lowest in the world in the business environment,
16 especially related to property rights, invasion
17 of properties, for example, their rule of law,
18 and the capacity to enforce agreements or
19 contracts.

20 So in a place where there's no rule of
21 law, obviously, as I mentioned in my first
22 intervention, the possibility of doing business,

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1 to defend your right as an investor, to defend
2 your right as an owner of a property are
3 completely extinguished by a regime that only
4 seeks financial resources through tax extortion.

5 MS. SAVAGE: Moving on to questions
6 for Dr. Manuel Orozco.

7 And Dr. Manuel Orozco with the
8 Inter-American Dialogue, you referenced tax
9 extortion and fiscal harassment by the Nicaraguan
10 government forcing businesses to keep a low
11 profile and participate in a national dialogue.

12 Can you please elaborate on these
13 circumstances? What do you mean by national
14 dialogue? Do you have an understanding of which
15 businesses or sectors have been the subject of
16 this government behavior? I'm happy to repeat
17 the first part if you had a hard time hearing me.

18 DR. OROZCO: Thank you. Between 2018
19 and early 2020, well, to July 2019, basically,
20 the Ortega government agreed to engage into talks
21 with the Nicaraguan civil society with organized
22 democratic groups in order to arrive at the

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1 political reform process. During that process,
2 Ortega basically decided when he realized that he
3 was high unpopular, that there was no way to
4 fulfill this national dialogue. He had agreed in
5 March 2019 to introduce a number of political
6 reforms that will turn the country into a more
7 democratic transition, but he rejected to do
8 that.

9 One of the key partners and members of
10 the national dialogue included the private
11 sector, the private sector, individuals of the
12 organizations like the ones that Dr. Chamarro
13 mentioned, the private sector organizations, the
14 U.S. Chamber of Commerce, among others. The
15 businesses, as well as the individuals, were to
16 some extent to put it roughly in a list by the
17 government to be harassed, to be intimidated in
18 different forms. One of those forms has been the
19 tax extortion or the fiscal harassment. The
20 modus operandi, the way it operates, basically,
21 is that you will reach out to a business and say
22 you owe \$1 million in back due taxes, and there

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1 was no records of evidence that there was that
2 debt, but in exchange, to forgive you or ask you
3 pay one tenth of that million dollars, you were
4 asked to basically keep a low profile during the
5 national dialogue that was taking place. This is
6 an example, but the intimidation occurred in at
7 least 10 to 20 different businesses. Some of the
8 business owners actually were confiscated
9 eventually in 2021. Many of them actually left
10 the country and some of them actually have U.S.
11 relationships, trade relationships, with the U.S.

12 MS. BACON: Thank you. My question is
13 also for Dr. Orozco.

14 Dr. Orozco, in your summary of your
15 testimony, you describe the impact that the
16 actions of the Government of Nicaragua have had
17 on the Nicaraguan economy and you stated that the
18 elimination of nonprofit organizations in
19 Nicaragua has led to foregone funds for these
20 organizations and affected millions of former
21 beneficiaries.

22 You describe immigration for Nicaragua

1 and the resulting influx of remittances and you
2 also describe the effects that property
3 expropriations and denial of citizenship has had
4 on the opportunities and plans of Nicaraguans and
5 their economy, including international
6 activities.

7 Do you consider that, what appear to
8 be direct impacts of the Government of Nicaragua
9 on the Nicaraguan economy, may have or have had
10 impacts on the U.S. economy as well? For
11 example, are there opportunities in Nicaragua
12 that are inaccessible to U.S. firms due to the
13 investment climate or because of human or labor
14 rights issues related to the workforce in
15 Nicaragua? Are firms from -- are there foreign
16 firms not from the United States able to take
17 advantage of those kinds of opportunities?

18 DR. OROZCO: Yes. I can give you a
19 huge list. I can give you one example, one very
20 simple example. With the care that -- I cannot
21 provide you with specific names because there is
22 eventual retaliation against those businesses,

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1 but one example is the digital financial
2 industry. This is a business I worked on the
3 money transfer remittances. Currently, Nicaragua
4 is less than three percent of remittance payments
5 are performed digitally into the digital economy
6 in the country. Whereas in the rest of Central
7 America, it's a larger percent. It's up to 20
8 percent, the case of Guatemala, for example.

9 Now, the main difference is that there
10 is the issue of insecurity among U.S.
11 corporations, fintech companies that do not want
12 to go and work in Nicaragua. They also have
13 evidence and examples of fintech companies that
14 have been confiscated by the Nicaraguan regime
15 preventing them from doing the business of these
16 types of operations. This is just one example,
17 but the list can operate at different levels in
18 the media sector, as well as in other trade
19 activities. You have an example here from
20 Riverside as another illustration.

21 But for the most part, what you need
22 to understand is that what is operating in

1 Nicaragua is an effective illustration of the
2 state capture where the regime basically has
3 decided to pass the bill on economic performance
4 to the United States by expending migrants 30
5 percent of the Nicaraguan economy is coming from
6 remittances from Nicaraguans in the United States
7 -- 80 percent of the \$5 billion in remittances
8 are originating from the United States.

9 In the process, the state capture
10 allows the Nicaraguan regime to enrich themselves
11 by externally borrowing funds from the
12 international financial institutions and using
13 those funds to facilitate enrichment of the
14 family clan. One example is construction in real
15 estate including investments in the Free Trade
16 Zone, and the real estate leasing to the free
17 trade companies operating there.

18 CHAIR GRIMBALL: Before you move on,
19 just to note one thing, we're very interested in
20 your answer on this, Dr. Orozco, and just for
21 everyone's awareness to the extent that you want
22 to further elaborate on your answer with those

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1 specific examples, we do have a means on our
2 website for you to submit that information
3 confidentially. So I would urge you to do use
4 the rebuttal period to do so and provide the
5 information if you're able. Thank you.

6 MS. SILVERSMITH: Dr. Orozco, you
7 stated in the summary of your testimony that
8 despite the Ministry of Labor, or MINTRAB's,
9 recent efforts to engage FTZ companies in
10 dialogue, workers today remain without access to
11 basic labor rights and proper oversight.

12 What recent efforts of MINTRAB are you
13 referring to? And what are the specific
14 challenges workers face when seeking legal
15 recourse for labor rights of uses in Nicaragua
16 including the roles of unions, MINTRAB, and the
17 judiciary in addressing or exacerbating these
18 issues since 2018?

19 DR. OROZCO: Well, basically, there is
20 no tribunalization in Nicaragua unless you belong
21 to the Sandanista Workers Union. Second of all,
22 you do not have the confidence as a worker to

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1 rely on the Ministry of Labor to seek redress in
2 case of any type of labor violation. Whether
3 these are people who are asked to work extra
4 hours without additional extra payment or whether
5 there is continued vigilance on the side of the
6 Nicaraguan police when workers leave the premises
7 from the Free Trade Zone.

8 So, there is no recourse at all to
9 reach out to any type of government support
10 because the government itself is conspiring
11 against the worker rights. So, to a large extent
12 it's basically an elimination of any type of
13 labor rights available to individuals in that
14 context. This is a closed society. This is not a
15 country where you can do on-site inspections like
16 in Costa Rica or even Honduras. So one has to
17 find ways to identify how the Ministry of Labor
18 have to be compliant in a way. And in order to
19 do that, you basically have to introduce
20 democratic reforms in the country.

21 MS. SILVERSMITH: Thank you, one more
22 question, Dr. Orozco. You noted that claims of

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1 labor rights violations in the FTZ have risen in
2 recent years. Do you have an explanation for the
3 increase in claims?

4 DR. OROZCO: I think it's the lack of
5 protection of labor rights that have led to
6 people to complain as there is more of a
7 systematic practice. For example, the wage
8 discrimination is one case. If you look at the
9 data, productivity has increased even though the
10 number of workers has not increased in the
11 country and the wages have actually, relative to
12 productivity, have actually been declining in the
13 past six years.

14 And when a worker talks to you, they
15 tell you, basically, we're working extra hours,
16 we're getting the same pay or less, and we don't
17 have no one to recourse. So it's becoming more
18 of a system-wide pattern. And it begs the
19 question, for example, to some of the businesses,
20 to the extent to which they are aware of this
21 equation, because the Labor Ministry is not
22 providing any type of information. There is not

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1 a possibility to open up the Labor Councils under
2 Chapter 16 of the CAFTA agreement. So it's a
3 difficult situation for everyone.

4 MR. VAN PATTEN: Thank you. Dr.
5 Orozco, the chart titled Productivity and Wages
6 in the Free Trade Zones of Nicaragua that you
7 included in your summary of testimony appears to
8 show that workers' wages in FTZs have gone up
9 since 2018, but not commensurately with their
10 productivity as the ratio of wages to
11 productivity has fluctuated, but overall
12 decreased since 2018.

13 Could you please describe in more
14 detail your understanding of how wages and
15 productivity in Nicaragua have changed since 2018
16 and the potential suppressive effect that these
17 changes have had on wages in the region?

18 DR. OROZCO: Basically, there hasn't
19 been a chance to establish negotiated agreements
20 over wages over the course of the five years and
21 that has been evident among workers in the Free
22 Trade Zone. The way to look at it is comparing

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1 2018 wages to 2024. They have only increased
2 less than 6 percent on an annual basis. When we
3 looked at the other wages increases in Free Trade
4 Zone countries like Honduras and Guatemala, there
5 has been a far greater improvement. In the case
6 of Honduras, during six years the wages have
7 increased more than 50 percent.

8 There is definitely a lack of
9 compensation to workers in addition to other
10 types of wage discrimination or the subsidies
11 that they were entitled to that were removed in
12 2021.

13 MS. SAVAGE: Dr. Orozco, in your
14 testimony, you outlined the Nicaraguan government
15 maintaining policies that exploit Nicaraguan
16 workers. So if so, are these policies enabling
17 unfair competition with U.S. workers?

18 DR. OROZCO: I think it does in the
19 sense that there is no labor rights protection.
20 This is basically sweatshop 2.0 in the 21st
21 century operating right in our backyard in
22 Nicaragua. Workers are completely unprotected.

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1 They see no recourse to stay outside of the Free
2 Trade Zone because you are basically going to the
3 informal economy which pays even less. So you
4 have two options, to stay there, migrate, or go
5 to the informal economy.

6 MR. HUFFMAN: My question is for Mr.
7 Toruño. You report a series of attacks on Radio
8 Darío and its employees including arson, raids,
9 and harassment. Why do you believe Radio Darío
10 and its employees were targeted for these
11 actions? Are you aware of other media outlets
12 that have been subject to similar actions?

13 MR. TORUÑO: Thank you for giving me
14 the opportunity. What happened to Radio Darío,
15 it happened to La Prensa. It's the most
16 important media outlet in Nicaragua. It happened
17 to Confidencial. It happened to Cien por Ciento
18 Noticias. More than 275 journalists are in exile
19 and more than 57 independent media have been
20 canceled, destroyed, taken away, confiscated.
21 And actually, in Nicaragua, it is totally silent,
22 all the media are gone. Journalists that exist

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1 are underground. We still have been persecuted.
2 I have a journalist right now, after six and a
3 half years, they have been incarcerated. And the
4 reason is because Daniel Ortega knows that.
5 Silent on that. Country -- it is very important
6 to take away the free press and take away, to be,
7 or know, the explanation that Juan Sebastián
8 expressed or Orozco, the other, explained. So it
9 is an important point. What's happening to that,
10 it's just an example.

11 MS. BACON: Thank you, Mr. Toruño. If
12 I could just follow up, are there press freedoms
13 that currently exist in Nicaragua? And what role
14 does the press play in protecting human rights
15 and labor rights and the rule of law in
16 Nicaragua?

17 MR. TORUÑO: Well, actually, media
18 outlets are being canceled. There is no free
19 press. There are journalists that are working
20 underground in a very hard and difficult
21 situation, dangerous to losing their liberty or
22 finishes in jail.

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1 And human rights, it's main line for
2 the media, independent outlets. And even though
3 it has been canceled, 59 media outlets, all these
4 medias are working in exile and something that
5 has been downsized for Daniel Ortega that we have
6 media independent in exile putting that picture
7 of what's going on in Nicaragua. That is the
8 horror, what's happening to us.

9 Daniel Ortega has been killing more
10 than 300 individuals, Nicaraguan people. He's
11 facing, actually, the international justice.
12 We're still working and being an important Main
13 Street for the Nicaraguan people and to tell the
14 world what's happening in Nicaragua shouldn't
15 happen anymore.

16 MR. HUFFMAN: Thank you. My next
17 question is for the representative of Notre Dame
18 Law School Global Human Rights Clinic.

19 Your pre-hearing submission indicates
20 that the Nicaraguan government harassed employees
21 of the NGO Fundacion del Rio and abruptly and
22 arbitrarily canceled its legal status and

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1 confiscated its assets. What impact, in your
2 view, has the closure of NGOs in Nicaragua had on
3 Nicaragua's reputation as a place that might
4 welcome U.S. trade and investments?

5 MR. BRISSAU: Well, the reason that
6 the NGO was cancelled, it was because of NGO's
7 work to defend and protect the indigenous people
8 and also the Afro-descendant community that were
9 operating in the areas where they were. And
10 there would be companies that would come and take
11 their land.

12 And then the organization would
13 prevent those kind of companies to come and then
14 take their land without any due process. Because
15 those organizations, they are the owner of the
16 land. And, therefore, they are guaranteed --
17 they should be guaranteed of liberty to explore
18 their land.

19 So the government, when they came,
20 there is no due process, and they take their
21 land. And then because of the work of the NGOs,
22 then, you know, they were pushed out.

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1 So any other institutions that would
2 come to a country without any legal procedure,
3 you know, to do expropriation, because there are
4 laws in Costa Rica that protect expropriation.
5 And without doing that would endanger not just
6 the life of the Afro-descendant and peasant and
7 indigenous communities, but also the assets of
8 those companies.

9 Because they would be exposed to
10 outside, to the constant fight between them and
11 the indigenous people. Because there is no real
12 protection for them and also for the communities
13 that are occupying the land.

14 And therefore, having a law that
15 protects both the investment from international
16 companies, and the land from those organizations
17 and those communities, would protect both, would
18 help both the investment of the corporation, from
19 international corporations, but also the local
20 communities.

21 So I think that's where the law is
22 weak, and it needs to be strong so that the

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1 international investment companies, corporations,
2 could know exactly what they are entitled to do
3 and then what they should not be doing in those
4 protected lands.

5 MS. SILVERSMITH: Mr. Brissau, could
6 you please elaborate on the work of Fundación del
7 Río before its closure?

8 MR. BRISSAU: Fundación del Río is a
9 foundation that was created in 1990 with the
10 ultimate work to protect the environment and to
11 protect also human rights of the indigenous
12 people, and also Afro-descendant communities that
13 are communities that have been, I would say,
14 limited to what they could do by the government,
15 because there is no one really to defend them.

16 And therefore, the organization, what
17 they do, they have registration, community
18 registration to talk to them about, to educate
19 them about their rights, to train them on how to
20 protect their rights, and then protect also the
21 human rights.

22 And they have also sites, conservation

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1 sites, that are protected. They are protecting,
2 they are showing them their rights and to protect
3 those conservation. They also have sites where
4 they do reforestation.

5 And those reforestation sites, that's
6 where the government, you know, were giving out
7 to corporations to just destroy the trees, you
8 know. And then those reforestation sites, you
9 know, they were trained on how to protect them
10 and how to grow trees. And then they were all
11 seized by the government.

12 So they are left now without any
13 support, any legal support, any legal means of
14 defending themselves. Because the whole assets
15 of the organization were seized by the
16 government, including Mr. Amaru's own bank
17 account was frozen, and the lien also was put on
18 all of his property. So therefore, he cannot do
19 anything. And now he lives in exile.

20 MS. BACON: And Mr. Brissau, what does
21 the closure of Fundación del Río say about the
22 rule of law and protection of human and labor

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1 rights in Nicaragua? And specifically, can you
2 describe the process for cancelling the legal
3 status of the NGO in Nicaragua?

4 MR. BRISSAU: Well, there was no legal
5 process that was put in place to cancel any of
6 the 5,000 NGOs. They just saw the decree from
7 the Ministry of Governance asking them to, you
8 know, close up shop, like other presenters have
9 said. There was no legal process that was put in
10 place to do it.

11 They just based on, sorry, on the law,
12 the communication law that the government has
13 put. And they just decided to cancel all, based
14 on Article 30 of the special law on cyber crimes.
15 So they are practically using the law to
16 persecute those organizations.

17 Because there's not really a law that
18 said okay, here's the point, A to Z, how to
19 cancel an organization. They based on, the
20 allegation's based on cyber crimes, most of them.
21 And that's practically the way they proceeded to
22 cancel all the organizations that were against

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1 them. Every one was a decision they are out.

2 MR. HUFFMAN: Thank you.

3 CHAIR GRIMBALL: Before you move to
4 the next question, I see that, Mr. Garcia, you
5 wanted to respond to this question as well. If
6 you could do so briefly, that's fine.

7 DR. CHAMORRO: It's unrelated.

8 CHAIR GRIMBALL: Sure.

9 DR. CHAMORRO: It's an unrelated
10 comment. But -

11 CHAIR GRIMBALL: It's an unrelated
12 comment to that question?

13 DR. CHAMORRO: Yes.

14 CHAIR GRIMBALL: Should we save it for
15 the end of this panel?

16 CHAIR GRIMBALL: Okay.

17 MR. VAN PATTEN: Okay, last question
18 for you, Mr. Brissau. Your summary of
19 testimonies suggests that Article 16 of the
20 Nicaraguan penal code is facilitating prosecution
21 of individuals who have been exiled.

22 If possible, could you clarify whether

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1 Article 16 is a recent provision or if it's one
2 that is being used in new ways under President
3 Ortega?

4 MR. RODRÍGUEZ: With the permission of
5 the committee, I would like to answer that
6 question. The Article 16 in the constitution has
7 a long time, but it was submitted to reform a
8 paragraph about the persecution of any Nicaraguan
9 citizen or a foreigner that attacks or attempts
10 to subvert a sovereignty of Nicaragua.

11 So in that sense, the article has been
12 used by the government in a new way to allow them
13 to persecute political opposition. But also what
14 they define as a foreign audience that it can be
15 foreigners that are seen by the government as
16 conducting activities against them.

17 So in that regard, we consider that it
18 also imperils the U.S. economic interest as their
19 own business audience or corporation could be
20 targeted because of the work they do if the
21 government considers they are in some way
22 attacking their national sovereignty.

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1 MS. SAVAGE: Thank you. The next
2 question is for Barry Appleton on behalf of
3 Riverside Coffee.

4 Your testimony alleges selective
5 inaction by the Nicaraguan government with
6 respect to Riverside's property as compared to 18
7 other properties. Can you elaborate on how the
8 eviction constitutes discrimination against
9 Riverside or U.S. companies more broadly?

10 DR. APPLETON: Thank you very much.
11 I'd be delighted to answer that question. What's
12 quite remarkable in this situation is that we
13 actually have a hearing and a factual record. We
14 have admissions and police reports from the
15 government of Nicaragua.

16 The government of Nicaragua has
17 actually admitted, through police reports, that
18 there was active police protection on those
19 cases. They also admitted, in their cross
20 examinations, that they had a specific policy to
21 not provide this protection to Riverside Coffee.

22 They also had a report sent to the

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1 national police chief who is the son-in-law of
2 the dictator. And that actually identified the
3 company as being owned by Americans and
4 identified the management as being Americans.

5 And so when you put this together and
6 you see it all very clearly, you see exactly the
7 type of invidious nationality-based
8 discrimination that we negotiated protections
9 against in the CAFTA, and the type of
10 discrimination that even goes beyond that as the
11 type of elements of customary international law.

12 And we have it not only in the area of
13 that, but you also have the issue of the failure
14 of full protection security.

15 And what's even more astonishing on
16 that, and we referenced that in our comments to
17 you already, is that the police sub-commissioner
18 admitted that he would just follow whatever
19 orders he was given, that he would not have a
20 command review. That whatever it was, if he had
21 those orders, he would carry them out.

22 If those were orders involved that

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1 would be oppressive to human rights, that would
2 be violative of personal safety, if they would be
3 engaged in inappropriate police brutality and
4 murder, he would just carry them out without
5 question.

6 And this is astonishing. And the
7 reason why we are here today is because we had an
8 independent investigative process that is
9 unavailable to those in Nicaragua, because their
10 courts are not independent. Those courts can't
11 have that type of evidence.

12 And I also identify that this body,
13 this interagency body, under the leadership of
14 the USTR, also provides key fact-finding
15 information that will assist those in Nicaragua
16 and other places in the world in being able to
17 deal with identifying the gross violations of the
18 independent judiciary and the rule of law.

19 I'm sorry, this was a little bit long,
20 but it's so important what you're doing. I
21 wanted to share exactly why this was there and
22 the record that would deal with it. But it's

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1 itemized in the materials that we gave you. And
2 of course, if you want we could also identify it
3 again in a post-hearing brief.

4 MS. BACON: Thank you, Mr. Appleton.
5 We were hoping that you could elaborate further
6 on the legal authority cited by the Nicaraguan
7 government for seizing Hacienda Santa Fe.

8 And we would also like to know how the
9 Nicaraguan government and judicial system
10 responded, have responded when you pursued a
11 remedy under Nicaraguan law or international
12 arbitration.

13 DR. APPLETON: I'm going to break that
14 down. So first of all, the government of
15 Nicaragua has an expropriation law but didn't use
16 it. They didn't notify us of a process. In
17 fact, it eventually did a protective process that
18 it was ordered to notify us of, and it failed to.

19 And the International Tribunal
20 reviewing the matter in a specific finding found
21 that to be a violation of due process in the rule
22 of law. Because they were ordered to give us

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1 notice, and they failed to. And there was no
2 excuse.

3 And in fact, when we look at what was
4 there, we actually discovered that they had
5 fabricated evidence of communications with
6 Riverside which didn't take place. And then
7 since we were not given notice to have due
8 process to be able to oppose it, we couldn't
9 challenge that, because we had no knowledge of
10 it.

11 And we filed an expert legal opinion
12 under the law of Nicaragua as part of the
13 international hearing process, and that person
14 was actually cross examined, but they didn't
15 actually go and challenge that material
16 whatsoever.

17 So with respect to that process, the
18 domestic side of it, we had nothing. Because the
19 rule of law is not respected, it's the absence of
20 the rule of law, as you've heard from the other
21 witnesses before you already and I suspect you'll
22 hear later today.

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1 I also identify that we filed two
2 expert reports which we put on the record here
3 from Tulane University's Professor Justin Wolfe.
4 And he has summarized the findings of the OAS and
5 of the UN experts dealing with a number of these
6 issues dealing with the erosion of the rule of
7 law and the violations of human rights.

8 And it provides a very useful summary
9 for you as to all of the extensive recent
10 evidence that's taken place. So with respect to
11 domestic process, none.

12 With respect to their arguments, the
13 arguments that took place were either they didn't
14 do it, they were not engaged in state-sponsored
15 activities, even though the legislative leader of
16 the government, Congressman Edwin Castro, met
17 with the leaders and told them that they should
18 remain in occupation of the American property and
19 they would eventually find money to pay for it,
20 because they recognized it was private property.
21 And they didn't do it.

22 This is the type of poster child that

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1 we would have for everything that you're not
2 supposed to do. Governments may expropriate, but
3 they can't do it in this way. And so the process
4 was broken. The foundational aspects of human
5 rights, which are respected here, were broken.
6 The lack of independence of the judiciary are
7 broken, the rule of law was broken.

8 And the only remedy that was available
9 was because of the CAFTA, because it had
10 independent abilities. And even in that
11 situation, our witnesses were under threat and
12 intimidated for their own testimony. And several
13 of them have had to flee the country, because
14 speaking truth to justice in Nicaragua has a
15 cost.

16 I am fortunate. I come to you from
17 the
18 New York Law School. I have liberty and freedom
19 in this country. I can speak the truth. And you
20 don't have to agree with me. I can still speak
21 it, and you will not put me in jail for doing
22 that, I hope. But that's not the case here. And

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1 so that's why this is so important. I hope I
2 answered your question.

3 MR. VAN PATTEN: Thank you Dr.
4 Appleton. You make reference in your summary of
5 testimony that other companies besides Riverside
6 have experienced lost investment and business
7 opportunities in Nicaragua which has, in your
8 words, created a high risk environment in which
9 to invest and conduct business.

10

11 Are you aware of other specific
12 instances where the Nicaraguan government's
13 policies discouraged investment or business from
14 U.S. companies? And could you share your
15 assessment as to why there is a high risk
16 environment in which to invest and conduct
17 business for U.S. companies in Nicaragua?

18 DR. APPLETON: Yes I can, again I
19 commend to you the excellent expert report from
20 Professor Justin Wolfe who has identified that in
21 his reports. I put them on the record here for
22 your assistance. And we'll flag some of that in

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1 our post-hearing comments.

2 But to identify in particular there
3 were a large number of companies and, in fact,
4 you heard that today from the other witnesses
5 that referenced Riverside, that Riverside's one
6 of many. There are state-sponsored takings.

7 And often just being an American is
8 enough to be the basis for all of this activity,
9 that if you are not paying fealty to the regime
10 by being actively a supporter of the regime --
11 Riverside Coffee was just neutral. It just did
12 business. That wasn't enough. And it lost
13 everything, and massive amounts of investment.

14 And we also, my client is deeply
15 environmentally committed. And they had a
16 sustainable forest and a preserve that they had
17 been developing for years. And it was massively
18 deforested after their property had been taken
19 over, hundreds of years -- we brought actual
20 witnesses in to the hearing, hundreds of years of
21 growth of rare preserve destroyed.

22 So the environmental degradation, the

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1 economic degradation, the degradation to the rule
2 of law, the degradation to human rights, the
3 resulting impacts in labor rights, it's not
4 surprising this is caused such destabilization in
5 the region.

6 And that impairs and nullifies the
7 impacts for U.S. business and commerce in a very
8 significant way, as well as the absolute and
9 specific violations of the CAFTA.

10 MR. HUFFMAN: Professor Appleton, in
11 your summary of testimony, you state that the
12 destruction of the rule of law by the
13 Ortega-Murillo dictatorship has significantly
14 burdened U.S. commerce. This appears to include
15 direction by the police not to protect U.S.
16 interests.

17 Could you please expand on how, in
18 your opinion, the current rule of law under the
19 current government of Nicaragua burdens or
20 restricts U.S. commerce?

21 DR. APPLETON: Thank you. And this is
22 important to understand. And it can be a little

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1 complicated. I'm going to make it as simple as
2 possible. And then if something needs more,
3 we'll add it into our post-hearing comment.

4 So the state has taken over every
5 element of independence within the states. So
6 for example, there were some questions earlier
7 about administrative discretion on tax issues.

8 In our own case, we had the defense
9 being filed by the government that -- and there
10 were eight different government regulators sort
11 of telling us that, even though we were in
12 business operations for 30 years, that everything
13 we were doing in every area was illegal and
14 therefore couldn't be done through the use of
15 discretion.

16 That, of course, would violate
17 foundational principles of due process and the
18 rule of law. We had never been notified of
19 anything. And, in fact, we had actually, less
20 than a year before the invasion, had government
21 report done which actually notified that we were
22 in full compliance with all, for example,

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1 environmental regulations, so actually something
2 positive, but yet declaration after declaration.

3 We brought in an expert on Nicaraguan
4 law who is based in the United States. So he
5 could actually speak fairly and accurately,
6 trained at Harvard. And he identified that this
7 was completely false.

8 He identified, in his expert opinion,
9 about the lack of independence now in the courts.
10 He identified how the business registries have
11 now been taken over and the property registries
12 have been taken over by the state. So now
13 there's no independent assessments.

14 So take the property registry, it no
15 longer is done in an independent way. If the
16 state decides it would like to change something,
17 it just does it. And you'll have to have notice.

18 And that is, in fact, what happened to
19 us. We had exclusive property ownership, de jure
20 title. And all of a sudden, one day we didn't.
21 They put their name on the title to our property,
22 no process, no payments, no notification.

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1 Another time they took part of our property,
2 created a forest reserve, no notice to us.

3 Now again, the government's entitled
4 to do these things, but not without a process,
5 not without compensation. We probably wouldn't
6 have opposed that. We're all in favor of
7 protecting the environment. It's part of the
8 corporate DNA of this particular company. But at
9 the end of the day, this is all wrong.

10 And then we have the issue of the
11 government, the Attorney General's Department,
12 actually fabricating evidence of rejections of
13 offers that were never made, never there.

14 And when the actual evidence was put
15 before the International tribunal, the Attorney
16 General of the State of Jinotega, the local area,
17 had to admit that the documents didn't say
18 anything that was put in the documents before the
19 court that she actually had to sign off on as the
20 Attorney General.

21 So we are talking about the absence of
22 the rule of law. You're talking about somebody's

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1 worst -- this is rotten documentation. This is
2 falsehood at the center of it.

3 I've been involved, I'm the
4 co-director of the International Law Center at
5 the New York Law School, I've been involved in
6 international law. This was for more than 30
7 years. This is the worst situation I have ever
8 seen in terms of the erosion of foundational rule
9 of law, the absence of following law, where all
10 we have is might over right.

11 And that, not surprisingly, causes
12 tremendous impacts for U.S. businesses that rely
13 on the carefully crafted treaties that we have.
14 And it's not, by the way, our trade treaties,
15 which are very important, but our international
16 human rights treaties, and our labor treaties,
17 and the foundational treaties that we have.
18 Nothing is followed. And you don't know.
19 There's no commercial stability, no
20 predictability. We don't know.

21 And if you speak up, if you question,
22 if you say this can't be right, can you help me

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1 to understand it, all of a sudden your family's
2 at risk and you are at risk. And you may be in
3 jail without habeas corpus.

4 Let me just check with my colleague.
5 Did I miss anything?

6 I'm sorry, it is an outrageous
7 situation. It is so bad that it is clearly why,
8 when I had raised it earlier, why I believe that
9 the situation under Section 301(b) is present
10 here. And that's why I underscore it. I'm
11 sorry, I don't mean to talk like a lawyer. But
12 it is occasionally helpful.

13 CHAIR GRIMBALL: Thank you. Mr.
14 Chamorro Garcia, I understand you had a --

15 DR. CHAMORRO: Thank you very much for
16 this special opportunity. I just wanted to call
17 the attention of the panel that on January 1st,
18 2024, enter into force a free trade agreement
19 with China.

20 And there is no way, there is no way
21 that investor from other countries like the
22 United States will be able to have the same

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1 benefits, the same preferences this Chinese
2 investor will have, therefore posing clear danger
3 to U.S. investors.

4 And that opened the possibility of the
5 entrance to the U.S. of intermediate goods in
6 which, for example, Chinese forced labor was
7 used. So I just wanted to call the attention to
8 the panel of this current situation that might
9 happen. Thank you.

10

11 C H A I R G R I M B A L L :

12 Thank you.

13 MR. HUFFMAN: Mr. Toruño, this is kind
14 of a follow-up question also. I'll ask it to you
15 and then kind of open it up, because I know there
16 are some economists here as well.

17 Prior to the closure of Radio Darío,
18 and the number of other media organizations that
19 were closed down by the regime, to what degree
20 did businesses, including United States
21 businesses operating in Nicaragua, rely on the
22 media and the free flow of information to operate

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1 efficiently?

2 MR. TORUÑO: Our media outlets were
3 one of the best in Central America. And since
4 Ortega came back in 2007, his main purpose was
5 to take over the media outlet, TV, radio station,
6 newspaper. He wipe out everything. Because it
7 was important for him, for his project, to
8 silence Nicaragua.

9 And I want to take this opportunity,
10 and I thank you, the social media networking has
11 been taken away from the Nicaraguan people.
12 There is a package all over when make a
13 delinquent action. People have been in jail, has
14 been sent in a jail, because things are being
15 expressed through the social media.

16 So it has been the new law for
17 communication, for example, allow the government
18 to ask the providers of internet all requirement
19 the data, the communication, emails,
20 communication between telephone and everything.
21 They control totally the communication in
22 Nicaragua. There is totally silent in my

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1 country.

2 One thing that we're ready for it, but
3 I hope it's not going to happen, if it's Daniel
4 Ortega decided to take away the internet and
5 control the internet as a Venezuelan country,
6 then we will be in really trouble.

7 As of right now, I think one segment
8 that we have been successful is that we have an
9 excellent media outlet on exile (phonetic). And
10 that's one thing that we still have, we're still
11 fighting for.

12 And I want to thank you, all of you,
13 because of the time actually to hear all the
14 expectation that we have. I think it is
15 important to take step forward, actually to make
16 decisions on that Ortega cannot keep going on
17 even with DR-CAFTA.

18 Everything he's taken from the United
19 States, all the income in majority is coming from
20 this country. And actually he's looking back to
21 the other way doing all the things that you hear
22 from all he companies and everything.

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1 And he still manage to take 70
2 percent, or more than 80 percent of income from
3 this country and take it away from us. And he's
4 comfort, he's happy with everything. Nothing
5 happened to Daniel Ortega, even the business from
6 America, from the United States. He stealing
7 from this country. And nothing happened to him.

8 CHAIR GRIMBALL: Thank you. Thank you
9 Panel 1. So I can release this panel?

10 While you all are going back into the
11 audience, I wanted to announce some adjustments
12 to the schedule. We are moving a little bit
13 ahead of time, and while we had originally
14 planned for Panel 2 to begin after lunch, what we
15 would propose, since I am told that all of our
16 Panel 2 witnesses are here, would be to begin
17 with the Panel 2 direct testimony.

18 If we all stick to our five minutes or
19 so of direct testimony, we can still be on
20 schedule for lunch at 12:30. So I would invite
21 Panel 2, assuming everyone is here, to come take
22 your seats. We'll proceed with your direct

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1 testimony, break for lunch at about 12:30, and
2 then return at 1:20. Thank you. Thank you all.

3 And I also should mention, we're going
4 to take a -- let's return at 11:45, let's take a
5 brief break, return to our seats at 11:45. Thank
6 you.

7 (Whereupon, the above-entitled matter
8 went off the record at 11:38 a.m. and resumed at
9 11:52 a.m.)

10 CHAIR GRIMBALL: Okay. If everyone
11 could take your seats, we're going to proceed
12 with Panel Two.

13 MS. THOMPSON: We will now begin with
14 Panel Two testimony. Our first panelist is
15 Dolilfa Rebeca Mora, on behalf of Max Jerez,
16 Nicaraguan University Alliance.

17 MS. MORA: My name is Dolilfa Mora,
18 and today I have the honor of reading the
19 testimony of Max Jerez, friend and nice person,
20 our organization the Nicaraguan University
21 Alliance.

22 My name is Max Jerez. I am a former

1 political prisoner. I share my testimony today
2 not only as a witness of the atrocities of the
3 Daniel Ortega regime, but also as a voice for the
4 thousands of Nicaraguans who cannot speak because
5 they are in exile, in prisons, or have been
6 silenced forever.

7 In 2018, while studying political
8 science at the Politécnic University of
9 Nicaragua, I joined the peaceful protest against
10 the social security reforms. What began as a
11 legitimate expression of discontent was brutally
12 repressed by the regime.

13 My active participation in the student
14 movement made me a target of the regime. In
15 2019, I was detained and beaten during a protest.

16 In 2021, after months of constant
17 surveillance and harassment, I was arbitrarily
18 arrested and taken to the infamous torture center
19 known as El Chipote.

20 I spent two and a half months in total
21 isolation without access to communication, family
22 visits, or legal representation.

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1 During my detention, my mother fell
2 seriously ill. All the efforts requesting that I
3 be allowed to say goodbye to her, were denied by
4 the regime.

5 My mother passed away on September 17,
6 2021, while I was still behind bars. And, I was
7 not informed of her death.

8 In February 2023, along with 221
9 political prisoners, I was stripped of my
10 nationality and forced into exile in the United
11 States. The regime ordered the confiscation of
12 all of my assets in Nicaragua.

13 It is ironic that the opposition has
14 been accused of destabilizing the country, when
15 in fact the Ortega-Murillo administration has
16 been the main promoter of violence, chaos, and
17 illegality.

18 This regime has turned Nicaragua into
19 an open field for organized crime, drug
20 trafficking, irregular migration, and other
21 illicit activities that not only undermine
22 democracy and free trade, but also hinder the

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1 economic and social development of the entire
2 region.

3 This crisis is not only a problem for
4 Nicaraguans, the suppression of the rule of law
5 and the absence of judicial guarantees has
6 created an environment of legal insecurity, which
7 manifests itself in the persecution of opponents.

8 The imprisonment of political and
9 social leaders and the right without due process
10 but also in economic instability, lack of
11 opportunities, confiscations, and
12 institutionalized corruption.

13 I appreciate all the efforts and
14 actions taken by the United States government for
15 my freedom and for the freedom of more than 350
16 political prisoners released in February 2023 and
17 September 2024.

18 And, I call on you to continue taking
19 concrete actions to defend democratic interests,
20 free trade, and the economic and social
21 development of the continent.

22 Thank you.

1 MS. THOMPSON: Thank you. Our next
2 panelist is Rosalía Gutiérrez-Huete Miller, on
3 behalf of Eliseo Nuñez, Concertación Democrática
4 Nicaragüense.

5 MS. MILLER: Thank you and good
6 morning. Testimony of the Concertación
7 Democrática Nicaragüense.

8 We the governing board of the
9 Concertación Democrática Nicaragüense represent
10 civil society organizations, private sector
11 leaders, political parties, NGOs, and leaders of
12 the Afro-Caribbean ethnic and indigenous
13 communities.

14 We declare that all 40 of our members
15 have suffered political prosecution by the Ortega
16 dictatorship. Our members have faced threats,
17 house arrest, jail, degrading treatments,
18 torture, stripping of nationality, exile, erasure
19 of civil registration, confiscation of
20 properties, and seizure of pension funds.

21 Small scale farmers opposed to the
22 Chinese financed Interoceanic Canal Project face

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1 repression. Student academic records were
2 literally erased. Legal profession licenses were
3 revoked, depriving them of employment
4 opportunities.

5 The political persons of the private
6 sector guilds and NGOs were summarily cancelled
7 without cause. And indigenous and
8 Afro-descendant communities were massacred by
9 government-sponsored thugs.

10 Deprivation of social security rights.
11 The arbitrary succession of pension payments and
12 confiscation of pension accounts for elderly, CDN
13 leaders were off, undermines the economic
14 stability.

15 Human rights advocacy. The CDN has
16 denounced these violations at various
17 international forums, including the OAS, UN,
18 IACHR, ILO, and U.S. Congress.

19 Most CDN members have filed petitions
20 with human right organizations and led media
21 campaigns for the release of political prisoners
22 and against human rights violations and the

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1 impunity when committing crimes against humanity.

2 Absence of rule of law. CDN has
3 highlighted the absence of the rule of law in
4 Nicaragua, where judges sentence opposition
5 leaders without due process.

6 The new authoritarian constitution
7 presently under ratification, will eliminate the
8 separation of power and turn Nicaragua literally
9 into a non-democratic state.

10 Articles protecting private property,
11 prohibiting wage discrimination, are in the
12 process of removal.

13 The constitutional process itself was
14 flawed and it was conducted by a legislative
15 assembly whose electoral process was considered
16 illegitimate by the OAF.

17 Additionally, no vetting process was
18 provided, because there as not a free and open
19 consultation with civil society. Finally, the
20 process is not being submitted for ratification
21 through a referendum.

22 CDN members have denounced the

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1 elimination of NGOs that worked on human rights,
2 environment, education, health, and more. The
3 regime has closed over 500 NGOs and ended
4 political parties representing the opposition.

5 Private sector leaders have faced
6 imprisonment and the elimination of business
7 organizations.

8 Labor rights. The Nicaraguan regime
9 has violated labor rights and denounced by
10 concept before the ILO.

11 The arbitrary cancellation of business
12 organizations, harassment of employees, workers
13 contravened ILO conventions 87 and 98. The U.S.
14 should censure Nicaragua for noncompliance with
15 cast of the art labor centers.

16 Commercial rights of the U.S. and
17 others. Recent decrees prioritizing state
18 purchases of Chinese products, violates liberty
19 oppositions and various trade agreements
20 including customs.

21 CDN has warned that these violations
22 endanger Nicaragua's commercial relations to the

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1 AU, EU, excuse me, and the U.S. and other trading
2 partners. The Ortega regime is responsible for
3 any negative economic consequence.

4 National security concerns. The
5 Ortega-Murillo regime during the last three years
6 has been waging a hybrid war against its main
7 trading partner, the United States of America.

8 Hundreds of thousands of Africans,
9 Middle Eastern, and Central Asian nationals,
10 mostly men of fighting age, have been allowed to
11 pass through Nicaragua or have been brought to
12 Nicaragua by charter.

13 Their passage through Nicaragua
14 facilitated by the Ortega-Murillo regime later to
15 be sent northward to the U.S. border,
16 weaponizing, I want to repeat, weaponizing
17 migration against the national security
18 interest's of the United States.

19 Both Article 21 of Act of 1997 and
20 Article 21 of CAFTA, contain provisions to put
21 remedies to this.

22 In conclusion, Nicaragua Federation of

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1 International Labor Conventions and fundamental
2 rights have not yet restricted access to
3 resources from multilateral organizations.

4 This allows the Ortega regime policies
5 to continue unabated and end up bolstering a
6 dictatorial regime which undermines a
7 market-friendly free and equal trade environment,
8 impairing trade with the U.S. and other
9 democratic countries.

10 Thank you very much for the
11 opportunity.

12 MS. THOMPSON: Thank you. Our next
13 panelist is Léster Lenin Alemán Alfaro, of
14 Nicaraguan University Alliance.

15 MR. ALEMÁN: I thank you for the
16 opportunity to testify today at this hearing. My
17 name is Léster Alemán Alfaro, a Nicaraguan
18 citizen and the President of the Nicaraguan
19 University Alliance, AUN.

20 Since April 2018, I have been the
21 victim of constant violations of my rights and
22 the systematic persecution by armed police and

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1 paramilitary of the dictatorship of Daniel Ortega
2 and Rosario Murillo.

3 Months after my participation in the
4 national dialog, the U.S. Ambassador to Managua,
5 Laura Dogu, informed me of a planned
6 assassination attempt against me, which forced me
7 to leave the country, returning to Nicaragua in
8 October 2019.

9 I have also detailed how every press
10 conference, peaceful demonstration, or
11 organizational event I participated in, was
12 beseeched and violently interrupted by heavily
13 armed police officers, violating our rights to
14 free expression, assembly, association, and
15 protest.

16 On July 5, 2021, I was violently
17 arrested without a judicial order. During my
18 transfer to the Judicial Assistance Directorate,
19 El Chipote, a torture center of the Sandinistas
20 under the control of Commissioner Luis Alberto
21 Pérez Olivas, I was brutally beaten by police
22 officers.

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1 For 580 days I suffered constant and
2 prolonged interrogations, physical and
3 psychological torture. In February 2022, I was
4 subjected to an illegal trial, where I was denied
5 the right to a defense and the presumption of
6 innocence.

7 Captain Jairo Orozco presented
8 fabricated evidence against me, such as a
9 photograph from a family trip to Disney World
10 when I was ten years old, the testimony of seven
11 national police officers led by Inspector Carlos
12 Quintana, and interviews I gave to the
13 international media.

14 This was enough for Judge Nadia Camila
15 Tardencilla to sentence me to 15 years in prison
16 and charges of treason. According to her words,
17 I was a CIA agent from the United States.

18 My family was also victims of
19 arbitrary actions and illegal practices. My
20 mother was monitored, threatened, and her rights
21 were violated. After leaving Nicaragua, she was
22 informed that she could not return or recover her

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1 identity documents de facto.

2 My father was stripped of his labor
3 rights and his contract and professional licenses
4 were suspended. Rosario Murillo directly
5 informed him that he was denied entry into the
6 country.

7 These are the consequences that a
8 Nicaraguan citizen or a foreign citizen can face
9 under the charge of Daniel Ortega.

10 Since April 2018, thousands of
11 Nicaraguan youth have been victims of
12 persecution. The regime has closed and
13 confiscated 27 universities, leaving our youth
14 without access to higher education, without job
15 prospects, without opportunities for development,
16 and without professional skills.

17 Can we truly speak of sustainable
18 investments in a country where human capital flee
19 every day. And, those who stay, live under a
20 state of terror.

21 Or, in a country where without the
22 remittances for migrants expelled to the United

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1 States, the economy would collapse. These
2 remittances account for 29 percent of our GDP.

3 Daniel Ortega and Rosario Murillo
4 promote the immigration crisis as a state policy,
5 even turning it into a business model that uses
6 the national territory as a route for illegal
7 migration, as has been stated by the State
8 Department of the United States.

9 A country with a brain drain under the
10 influence of China, Russia, and Iran, and
11 controlled by a family dictatorship, is a country
12 that cannot have good relations with the United
13 States, cannot have good commercial partners, or
14 attract secure investments, nor achieve
15 sustainable economic development.

16 Thank you.

17 MS. THOMPSON: Thank you. Our next
18 panelist is Leonardo Pastor, Mesa de Concertación
19 Democrática.

20 MR. PASTOR: Thank you very much for
21 your invitation. Again, I do represent the
22 Democratic Concertación Table. And, we're based

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1 in D.C. and Florida.

2 And, I want to tell you my story,
3 because, I think, through four years of living in
4 the United States and being a United States
5 citizen, I can present some sort of picture of
6 what really we have in front of us.

7 And, I think what we have is a
8 narco-terrorist system that is moving up across
9 Latin America and putting the United States
10 system in danger.

11 So, in the 1980s, I was a professor at
12 the University of Nicaragua. My background is in
13 engineering. I am a civil engineer and I love to
14 teach. And, I love my students.

15 The first two years of the revolution,
16 70, 80 percent of my students were taken from my
17 classrooms and put into war zones. Picked up
18 right from my classroom and dropped into vehicles
19 of the government, trucks, and moved to the war
20 zones with no preparation, no one telling them,
21 their parents that they were leaving.

22 And, one day, one of my students with

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1 a very depression face, showed me a paper that
2 they show them that they have to go to war. And,
3 that was it for me.

4 I said, there was nothing I can do
5 here. There's no future for this country. And
6 so, I packed my bags and basically under pressure
7 of the government too, I basically exiled myself.

8 And, I'm so glad I did it, because I
9 came here. My son is in the military, I guess,
10 protecting the ideals that we have.

11 And, maybe I am a dreamer, but I
12 believe that this country is based on ideals.
13 And, those ideals we fight for them every day.

14 So, through the years that I decided
15 to fight for those kids that were taken from my
16 classroom. And so, I always dedicated my work
17 and technology for kids, the young fellows that
18 they need help in this country too.

19 So, in that process, I have always
20 joined efforts to change things in Nicaragua.
21 And luckily, in the 1990s, during the Reagan
22 Administration, and I want to bring that because

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1 what happened during the Reagan Administration is
2 there was a war declared to the Nicaraguan
3 government by some group called the Contras.

4 And, basically what they did was
5 accelerated a process of economical
6 deterioration. But, here we are, 40 years later,
7 under the same situation.

8 And, what happened is, Sandinistas
9 version one didn't work. It was, they wanted to
10 implement what they did in Cuba.

11 And so, they basically waited for 23
12 years after they lost the elections, and they
13 began with version now five. And, that's the one
14 we have now.

15 So, also my family owned a piece of
16 land. And, we were driven into bankruptcy,
17 because we used to be coffee producers and
18 basically the government will pay us whatever
19 they want us to pay, which basically ended up
20 putting us in a bad situation.

21 So, after that I joined forces with
22 groups here that some of them are here already.

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1 And then, we tried to change things and we did
2 some, a little bit of lobbying, trying to move
3 things in different ways.

4 But, this corruption, this system
5 works so well, that it would corrupt everything
6 else. So, the politics and the political system
7 was corrupted.

8 And so, they bargained with people.
9 There was Alemán, who was supposed to be in jail
10 and the bargained with him to stay in power so
11 they will gain only about 20 percent of the votes
12 to really become the president of the country.

13 So, and now I want you to look, when
14 they were there, El Salvador on the FMLA, they
15 were invading basically. El Salvador and we have
16 a big turmoil in the '80s.

17 Now, I want you to look at Costa Rica
18 and look at the numbers of criminality and the
19 things that are happening.

20 So, in my testimony here, I also want
21 to bring that as a Mesa de Concertación
22 Democrática, we bring testimonies of people that

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1 cannot be present.

2 One of my friends who is a journalist
3 and my wife who is a journalist, basically when I
4 talk to my friend in Nicaragua, they do it by
5 signs. They are so afraid to even say something
6 on the communication software.

7 So, as that I have many cases. We
8 have people to fight online, like Azul y Blanco
9 and Manny Bull (phonetic). She is afraid to even
10 say who she is. Her son just got --

11 CHAIR GRIMBALL: Mr. Pastor, I cannot
12 tell how far, how much longer you are going to
13 be.

14 MR. PASTOR: I'm done. I'll finish my
15 time.

16 CHAIR GRIMBALL: But, if you could
17 conclude. Thank you.

18 MR. PASTOR: Yeah. Sure. Like, three
19 more minutes. I mean, three more minutes, five
20 more seconds.

21 So, basically all the information is
22 there for the cases that we are trying to

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1 represent.

2 And so, I appreciate that you give us
3 this space to present this case. Thank you.

4 MS. THOMPSON: Thank you. Our last
5 panelist will be Jessenia Valeska Valle Duarte,
6 Movimiento Universitario 19 de Abril.

7 MS. DUARTE: Thank you Committee
8 Members. It's an honor for me being here today.

9 My name is Jessenia Valeska Valle
10 Duarte. I am President of the University
11 Movement April 19.

12 I was born in Masaya, Nicaragua. And,
13 my testimony today carries the voice of the
14 weight of the Nicaraguan youth struggle for
15 democracy and liberty.

16 I was delegate in the national dialog
17 of May 2018, and part of the negotiation team
18 against the Sandinista regime in February 2019,
19 giving me this, giving me a firsthand perspective
20 of the intersection of human rights violations
21 with economic degradation.

22 My testimony is crucial, as it

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1 outlines how the regime's oppressive policies not
2 only infringe upon human rights, but also
3 significantly undermines U.S. commerce and
4 investment in Nicaragua.

5 I was involved in this process in
6 2018, with the students like me at the
7 Universidad Centroamericana, UCA. On that date,
8 I was 20 years old in that moment, and the UCA
9 temporarily closed its doors to protect students
10 from state violence outside.

11 So, I joined the civic and peaceful
12 process at both Universidad Nacional de
13 Ingenieria and Universidad Politécnica who are
14 both complicated at this moment.

15 There we encountered no dialog but a
16 violent response from the government in that
17 moment leading to the tragic loss of students'
18 lives.

19 My life changed irrevocably on April
20 25, 2018, when our movement publically denounced
21 these atrocities to the student community across
22 the country, demanding and investigation and the

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1 arrest of these involved the massacre and
2 violence.

3 That was the last day I spent in my
4 house. The persecution that followed forced me
5 into hiding since I left the country, the March
6 27, 2023.

7 And, both in 2018 and 2023, there were
8 attempts to detain me under law 1042, falsely
9 accusing me of terrorism and cyber crimes for my
10 advocacy and unofficially stripping of my
11 nationality according to the officer, Carlos
12 Olivera of the Police Intelligence, which, this
13 outrage breeches Article Five the Nicaraguan
14 Constitution, which ensures citizens by birth.

15 The use of a stateless as a tool of
16 repression not only affects individuals, but also
17 deter U.S. investors who see these as a sign of
18 unstable legal environment where property and
19 personal rights can be arbitrarily revoked.

20 The continuous threats follow in Costa
21 Rica where the regime sent death threats to me
22 and my family in that moment.

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1 This instability to safety return or
2 invest in ones homeland results in a brain drain
3 in our country where skilled individuals like me,
4 vital for economic development, seek refuge
5 elsewhere, thus reducing the human capital that
6 could benefit this investment.

7 I would like to add that we are taking
8 about Daniel Ortega, who in 2021, declared
9 himself President, which was unconstitutional.

10 This reelection was condemned
11 internationally as unconstitutional, involved,
12 and involved recent reforms right now to the
13 Constitution, centralizing the power without
14 public participation, undermining the Article
15 138, which ensures the separation of power of
16 Nicaragua.

17 This was documented by several
18 organizations of human rights and democracy.
19 And, this violation has led to monopolistic
20 practices in sectors like agriculture and where
21 companies like Gildan Activewear and U.S. Rice
22 also support the regime benefitting from

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1 favorable conditions without real market
2 competition, both distorting market dynamics and
3 disadvantaging U.S. firms or investments.

4 These companies can operate with fewer
5 regulatory hurdles and gain from state-controlled
6 markets.

7 Additionally, I would add that in
8 Nicaragua, no one is safe, regardless of age,
9 gender, religious belief, or whether you are a
10 internal investor or foreign national like
11 students.

12 If you are not willing to be part of
13 the oppressive regime that they have, you become
14 a target and you become an enemy. Political
15 prisoners were students, minors, businessmen,
16 social activists, political activists, and also
17 one of them a U.S. citizen.

18 Thank you.

19 CHAIR GRIMBALL: Thank you. And,
20 thank you for all the witnesses on this panel.
21 At this moment, we are going to take a break for
22 lunch.

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1 So, let's return here at, I believe
2 the schedule says 1:20. Let's just do 1:30.
3 Let's return at 1:30.

4 And, we will proceed with questions
5 from the government representatives. Thank you
6 all.

7 And, just so you all are aware, there
8 will be a pretty significant line if you leave
9 the building to go get food.

10 So, I would encourage you all to
11 probably get back to the building at 1:15 so you
12 can check in through the security and be back in
13 your seats by 1:30. Thank you all.

14 (W h e r e u p o n , t h e
15 above-entitled matter went off the record at
16 12:26 p.m. and resumed at 1:33 p.m.)

17 MS. THOMPSON: Will the room please
18 come to order? Will the room please come to
19 order?

20 CHAIR GRIMBALL: Thank you, everyone.
21 We are going to continue with Panel 2 and begin
22 with questions to witnesses. Again, if you --

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1 you are welcome and invited rather to -- in
2 addition to responding to questions here today
3 also provide a written supplement to your -- to
4 the responses that you provide.

5 Can you all hear me? Yes? Okay. Not
6 really? Okay. Let's try again. How about now?

7 I was saying to our witnesses and also
8 to those in the audience that you all are welcome
9 and invited to supplement -- those who are
10 speaking, to supplement what you say here today
11 with a written submission as well.

12 In addition to those that are in the
13 audience, if you would like to respond to any of
14 the questions that the government panel asks
15 today, you can also file responsive comments on
16 the docket.

17 (Off microphone comment.)

18 CHAIR GRIMBALL: The 23rd.

19 Okay. And we shall begin.

20 MS. BACON: Good afternoon, everyone.
21 My first question is for Ms. Mora. Could you
22 please tell us more about your organization and

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1 the work that it does; that is, more about the
2 Alianza Universitaria Nicaragüense?

3 MS. MORA: The Alianza Universitaria
4 Nicaragüense formed in April 2018 during the
5 protests and we helped formed the alianza civica,
6 the Civic Alliance for Justice and Democracy,
7 which played a key role in the dialogues. We are
8 a youth movement, youth of different backgrounds,
9 but primarily university students. We
10 participated in the national dialogue. Léster
11 was our representative, and the person I'm here
12 for, Max Jerez, also participated in the 2019
13 dialogue with the national government.

14 We've been active for six years now to
15 -- in the fight for democracy to reestablish
16 freedoms and guarantees in Nicaragua and we have
17 had also had different moments of advocacy both
18 inside Nicaragua and internationally.

19 And I'll close by saying we've also
20 paid the cost. Several of us have been political
21 prisoners, have gone into exile, have been
22 persecuted and we continue to work for Nicaragua.

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1 MS. BACON: Thank you.

2 MS. SAVAGE: Thank you, Ms. Mora. Can
3 you please elaborate on what you understand the
4 Nicaraguan government's motivation has been to
5 transform private universities into publicly-run
6 institutions and how in your view has that
7 impacted human rights, labor rights, and the rule
8 of law in Nicaragua?

9 MS. MORA: During the 2018 protests
10 we, youth, and particularly students, played a
11 very important role. The universities became a
12 space of civic protests and civic resistance and
13 we young people participated in the civic protest
14 fighting for justice and democracy. And this
15 brought about a process whereby different youth
16 became leaders, youth of different backgrounds.

17 And so the Ortega regime saw in the
18 universities and the youth a threat and so he
19 took the public universities and confiscated
20 them. And so there has been a mass exiling of
21 youth. And this has also meant that the talent
22 in Nicaraguan youth have been displaced outside

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1 the country limiting employment inside the
2 country. It seems that we youth don't have
3 opportunities for professional growth in our own
4 country and so we have to migrate or go into
5 exile because of the persecution we suffer in
6 Nicaragua.

7 MS. SILVERSMITH: Ms. Mora, could you
8 please elaborate on how the government of
9 Nicaragua in your opinion does not respect human
10 and labor rights and the rule of law? What
11 impact does this have on its trade relationship
12 with the United States?

13 MS. MORA: Unfortunately under the
14 Ortega regime there's no constitutional
15 guarantees or respect for constitutional rights
16 and there's no rule of law in the country. I can
17 cite some examples: Public sector state workers,
18 say physicians and teachers, university
19 professors as well as teachers in public high
20 schools were dismissed for supporting the
21 protests or for in way or another supporting
22 human rights. In Nicaragua there are no

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1 guarantees for anyone, but public sector
2 employees in particular live under constant
3 threat.

4 And in particular, there's no
5 opportunities for organizing independent trade
6 unions. And mention was made of this earlier
7 when it was noted that the women's trade union of
8 women workers and unemployed women known as the
9 Maria Elena Cuadra Union was canceled by Ortega.
10 And because of the persecution and surveillance
11 in Nicaragua under the current dictatorship,
12 under the regime no one really enjoys any
13 guarantees.

14 MS. BACON: Thank you, Ms. Mora.

15 My next question is for Ms.
16 Gutiérrez-Huete. Can you please elaborate on
17 your organization's membership? You mentioned
18 leaders from the private sector. What sectors,
19 especially as relevant to U.S. trade?

20 MS. GUTIÉRREZ-HUETE: Thank you. I
21 can attest that the -- a high percentage, a
22 number of the impresarios, the business sector is

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1 actually, I would say, in chains. It's at the
2 very mercy of the discretionary practices of the
3 government. And in turn, these actions become
4 discriminatory against the U.S. businesses and
5 not willing to cooperate with the dictator terms.

6 MR. VAN PATTEN: Thank you. Ms.
7 Guitérrez-Huete, the CDN submission for this
8 hearing described --

9 MS. GUITÉRREZ-HUETE: Could you speak
10 a little louder? I'm sorry.

11 MR. VAN PATTEN: Yes. Is this better?

12 MS. GUITÉRREZ-HUETE: Thank you. Yes.

13 MR. VAN PATTEN: Your submission for
14 this hearing described legal elimination of
15 organizations including COSEP, the employer's
16 organization, and various chambers of commerce
17 including the American Chamber. How if at all
18 have these closures affected foreign firms doing
19 business in Nicaragua, in particular U.S.
20 companies?

21 MS. GUITÉRREZ-HUETE: Excellent
22 question. And in fact that is the damage that is

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1 being done by canceling and not allowing the
2 business to actually do the trade like they need
3 to do. And I refer to my previous answer. The
4 way that I can express is to you is it's almost
5 like Russian roulette. It is totally at the
6 discretionary -- at the will of the Ortega regime
7 who can operate and who doesn't, who cannot. And
8 you can imagine the result of this. So I leave
9 it at that.

10 MR. VAN PATTEN: Thank you.

11 MS. SAVAGE: Ms. Guitérrez-Huete, in
12 CDN's summary of testimony it says that CDN has
13 made explicit that the violations of the rights
14 of Nicaraguans by the Ortega regime put in danger
15 the commercial relations Nicaragua still enjoys
16 with important markets such as the European Union
17 and the United States. Could you please
18 elaborate on how the acts, policies, and
19 practices of the government of Nicaragua put in
20 danger the commercial relations Nicaragua has
21 with the United States?

22 MS. GUITÉRREZ-HUETE: That is exactly

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1 why this is in the testimony, because the result
2 of these laws that are being violated every
3 single day prevent the flow of the commerce
4 between the two countries and other countries
5 including the European countries.

6 I'm happy to elaborate further in
7 written form, but that is the reason why this is
8 in the testimony, because it is happening -- it
9 is damaging a country that's already fragmented
10 in so many ways, as we have mentioned here by the
11 elimination of the NGOs and the issues with the
12 business sector.

13 MR. VAN PATTEN: Thank you. One more
14 question for you. CDN states in its testimony
15 that the government of Nicaragua has
16 indiscriminately repressed economic rights
17 regardless of the nationality of investors. Are
18 you aware of any specific instances of the
19 government of Nicaragua repressing the economic
20 rights of U.S. investors? And if you need to
21 submit in writing confidentially, that's --

22 MS. GUITÉRREZ-HUETE: I will. Thank

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1 you. I choose to do that. I will submit it in
2 writing. Thank you.

3 The issue -- the reason why I am
4 saying that is because there's no -- I would like
5 to give you a concrete answer rather than mention
6 several of the ones that you are asking. And I
7 think it's fair that you get the exact examples
8 that you are requesting. Thank you.

9 MS. SILVERSTEIN: Ms. Guitérrez-Huete,
10 CDN notes in its summary of testimony that there
11 is a climate of harassment and repression against
12 employers and workers in Nicaragua. Can you
13 please describe this in more detail? What kind
14 of repression are employers and workers facing
15 and are certain types of employers or certain
16 types of workers targeted for repression? And if
17 so, why?

18 MS. GUITÉRREZ-HUETE: Very much so.
19 In fact, it's ironic that the very people
20 who have pledge allegiance to the regime who are
21 working as government employees of the
22 Ortega-Murillo regime are the very ones who are

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1 being targeted through intimidation.

2 And what does that look like? For
3 instance, they have -- they cannot -- they're
4 being watched, they're being intimidated and
5 cannot -- I believe that if they could attempt to
6 leave the country passports will be confiscated.
7 And already they have been warn not to leave the
8 country. And this is happening.

9 We see examples of this. And we know
10 about how those who have remained there are also
11 being punished including the legislative branch
12 of Nicaragua as we have court judges and so on
13 who have been removed from their positions. So
14 that is -- so what is going on is that they're
15 creating a climate of intimidation and targeting
16 those very employees, as I mentioned, who have
17 pledge allegiance to the regime.

18 MR. HUFFMAN: Hi, my question is for
19 Mr. Alemán Alfaro. You state that you currently
20 serve as the President of Nicaraguan University
21 Alliance.

22 MR. ALEMÁN: Yes.

1 MR. HUFFMAN: Could you give any more
2 information about the organization in detail that
3 we've not already gotten? And I'd like you to
4 discuss what impact the government of Nicaragua
5 has had on the ability of independent higher
6 education institutions to operate in Nicaragua.

7 MR. ALEMÁN: Thank you very much.
8 Organization has done political and
9 organizational work for young people. And these
10 young people are from the central part, the
11 northern part, the Pacific part of the country;
12 that is, the whole country. Everyone has come
13 together to defend democracy, justice, and
14 freedom.

15 So we emerged in the universities in
16 2018, but in 2021 we also began to prepare for
17 the elections. So we are an organization of
18 students, but also politically engaged. So the
19 universities then were closed because we were
20 meeting peacefully in the universities to try to
21 come up with solutions for education and
22 solutions for democracy for our country. So the

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1 crime was being a young person and being a
2 student. And that's why they shut down 27
3 private universities and the public universities
4 were converted into indoctrination centers to get
5 people to be faithful to the dictatorship. So to
6 be able to be accepted into one of these
7 universities you needed to secure the approval of
8 the dictator, you need to pledge loyalty to them.

9 MS. BACON: Mr. Alemán Alfaro, in your
10 opinion what has the cancellation of independent
11 higher education institutions in Nicaragua done
12 to Nicaragua's reputation as a place that is
13 friendly to the United States' trade and
14 investment?

15 MR. ALEMÁN: The persons who were
16 studying in these universities were pursuing
17 dreams, a dream of becoming an engineer,
18 architect, pursuing science -- studies in the
19 sciences but ended up having to find work either
20 in free trade zones or in call centers because
21 they were simply not going to have any job
22 opportunities in their chosen fields. And many

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1 of the people who've been working in the call
2 centers are being dismissed either because of
3 their own political participation or because
4 they've engaged in one or another activity
5 characterized by the government as being
6 criminal.

7 And this has had its consequences.
8 They've been dismissed from the call centers or
9 elsewhere without any benefits or recognition of
10 any rights whatsoever. The business persons,
11 both national and foreign, running these
12 businesses are forced to fire these persons
13 who've been so signaled by the government because
14 otherwise they might be -- fall on the bad side
15 of the government.

16 And I'll just close with something
17 which is quite basic, which is when these youth
18 are dismissed from these places, they have no
19 other options because they continue to be
20 persecuted because of their political beliefs or
21 political actions and their only choice is to
22 leave the country.

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1 MS. SILVERSTEIN: Thank you. This
2 next question is for Mr. Pastor. Mr. Pastor, you
3 said in your submission for this hearing that
4 Bayardo Arce Castano's position as an economic
5 advisor to President Ortega allows him to shape
6 agricultural policies to benefit regime-aligned
7 businesses while ignoring labor and human rights
8 abuses in the sector. Can you give us some
9 examples of this?

10 MR. PASTOR: Well, Bayardo Arce is one
11 of the founders of the Sandinista Movement in the
12 '80s. And after the fail attempt to sustain the
13 government during the '80s, when the Sandinistas
14 were moving under the other governments and when
15 they took power again in 2006, Bayardo Arce was
16 called to be the main guy between doing business
17 with United States.

18 Now, as far as we know, he is under --
19 either he owns business doing rice, production of
20 rice, but also he has created this kind of
21 monopoly among all these organizations that
22 produce rice. And I can tell you in the case of

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1 the coffee we were pressured to sell to the
2 government. And so the only thing I can think of
3 is that they're using the same tactic. It's the
4 same way they did it, just in a little bit
5 different fashion. And I'm sure that at the end
6 of the rope Bayardo, as we mentioned, is part of
7 the mastermind in getting this business to end.

8 Now, I want to separate two different
9 things: There are businesses that are investing
10 in Nicaragua and there are also business that are
11 doing business with Nicaragua where they may not
12 have a great investment. So the Rice
13 Association, as they presented there -- I guess
14 they're trading with producers from Nicaragua.
15 But what the government has created is a monopoly
16 among the one that are close to them.

17 And I want to say that it's not too
18 tight yet, but is in the process of tightening
19 this process because eventually they do not want
20 to do business with United States. It's just a
21 matter of time, either in 10 years or 15 years,
22 because their objective is either Soviet Union,

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1 China, whatever that may come in the future. But
2 because they are still attached to United States,
3 they have to follow that rule, that process. So
4 it's just a strategy.

5 So and Bayardo Arce is one of the main
6 element in the whole process of the rice industry
7 in Nicaragua. And that's the way it works.

8 MR. HUFFMAN: Thank you. You note
9 that Arce's position in the government allows him
10 to ignore labor rights abuses in the agriculture
11 sector. And can you elaborate on these labor
12 rights abuses in the rice sector that you've
13 mentioned here and any other sectors such as the
14 coffee sector? Can you be more specific about
15 these labor rights abuses?

16 MR. PASTOR: So you can through any
17 system, but I think because Bayardo has a lot of
18 investment in the rice sector makes it a more
19 visible element. But all the systems work the
20 same way. Either if you are business that work
21 with the government -- because the government
22 actually has given a lot of their partners lands

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1 and -- the same thing they did in the '80s.
2 Actually some of -- it's interesting because some
3 of the military attaché have been officers, that
4 they get a piece of land and they do develop
5 their own businesses. But they're close to the
6 government. And so these are the first candidate
7 to really work with this group.

8 Now, other people that through the
9 years, they've been doing rice production, they
10 still may be working with the government. What
11 happened though is that, as in our case with
12 coffee, the international price was something and
13 then the government offer you something else
14 which is much lower. So the only way you can
15 afford to sustain this business is by keeping the
16 wages very low for the people in the countryside,
17 or the farmers. So it's the same system across
18 the system.

19 And so -- and I -- that's the same way
20 we -- it happened. The farmer, the laborer, they
21 get at the end this little amount of money that
22 is not equally distributed. As I think Mr.

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1 Orozco was saying is the money doesn't go there.
2 So whatever business, whatever economical
3 advantages these were getting through CAFTA is
4 not going through the farmer, through the
5 peasant.

6 And also in the case of the farm that
7 we have, which is no longer productive because of
8 those cases, the people that we had working there
9 -- I can't afford to pay them more because I live
10 here in United States. But the farm doesn't
11 produce anything really beside giving them enough
12 plantain or some sort of fruits that they can
13 live out of. But that's basically it.

14 MS. SAVAGE: Mr. Pastor, you described
15 the Nicaraguan government's control over the rice
16 sector. How does that control over the sector
17 impact its ability to trade with the United
18 States?

19 MR. PASTOR: As many of the people
20 that have been here have been saying about the
21 economical situation, the regime needs still
22 survey, right? There is a difference in the '80s

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1 and now, which a lot of money come from all these
2 people that have been sent to United States
3 through deferral and exile and all that. Even
4 when I look at Mr. Alemán, I figure that is the
5 same story I live when I left, right? As a civil
6 engineer what future I had in Nicaragua? There
7 was no future. Actually the dean of the
8 university was -- told me once, like I'd rather
9 have a bad engineer but a good revolutionary guy.
10 So that's what we have.

11 And so it's the same thing here. The
12 dynamic you have in the rice sector is that
13 little by little -- and this is just a matter of
14 time -- it will be squeezed. So like the
15 business of the coffee here, because they have
16 investment in Nicaragua, they suffer the first
17 wave of attack, is I'll take your land if I like
18 it.

19 And so the same thing. I have friends
20 that do tobacco production. That doesn't take
21 couple of years to build it. They've been doing
22 this since the Chamorro regime came, or the

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1 Chamorro government came in power. Would allow a
2 little bit more business to come in and do all
3 that. Now these businesses are being squeezed.

4 Now sooner or later the rice industry
5 will be impacted. It is because they're trading,
6 you know, getting the rice from the production,
7 internal production. But I will say that they
8 may have the great investment as Gildan. Gildan
9 needs to have this production of shirts. And so
10 it's just a matter of time.

11 And that's what I said at the
12 beginning. You have to look at this as a
13 narcoterrorism. It is just squeezing little by
14 little. And they know they're -- how they work.
15 They work really well. They have taken over the
16 government branches. They're using laws and
17 rules. Like I can write here right now a rule
18 and that will be applied to a person like they
19 did with Mr. Alemán and anybody else. And that's
20 it. It works really well. So the rule of law
21 according to the rule of law really works well in
22 that case.

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1 MR. VAN PATTEN: Thank you, Mr.
2 Pastor. One more question for you. You state in
3 your summary that the regime's control over
4 critical sectors like rice is not merely
5 economic; it is a tool of political influence.
6 Could you please expand on what you mean by that
7 statement? And you've alluded to some, but I was
8 hoping you could discuss other critical sectors
9 that are controlled by the government of
10 Nicaragua.

11 MR. PASTOR: Right. Well, when you
12 look at the docket, right, and you see what
13 companies are asking for the -- for CAFTA not to
14 be taken, right -- and thus you have the rice
15 industry, you have Gildan, you have the shoe
16 industries. And those play a role to oppose what
17 we're saying here. It's like, no, don't hurt
18 them. We need that. But at the end that's the
19 tool, how they use it. So they have the
20 companies fighting for them.

21 Besides that, I mean how much we can
22 put -- in money-wise, how much money we can put

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1 here, we're all struggling. People -- most
2 people are struggling to find ways to come to
3 these meetings and all that. But the government
4 of Nicaragua, the regime, is just have the funds,
5 have the resources. And so this is the critical
6 aspect. They use that as a political tool to
7 come and say, no, no, don't do that. CAFTA
8 should be okay. And the worst part of it is 15,
9 20 years ago I came to some of these meeting to
10 fight for CAFTA for Nicaragua and now I'm here to
11 say like let's try to put some teeth to this
12 CAFTA program project.

13 CHAIR GRIMBALL: Thank you. For the
14 record I would just state that our final witness,
15 Mrs. Valle Duarte, was unable to join us for
16 additional questions after lunch, so we'll just
17 note that in the record.

18 Two witnesses have signaled that they
19 have additional comments. So at this time we
20 will give the floor to Ms. Guitérrez-Huete and
21 them Ms. Mora. And then we will take a brief
22 break and then begin with Panel 3. Thank you.

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1 MS. GUITÉRREZ-HUETE: Thank you. I
2 feel that I want to provide more clarity to you,
3 the Department of Labor, question. And if you
4 permit me, I'd like to take a look at my notes.

5 So Nicaragua is not complying with the
6 regulatory requirements of the existing trade
7 regimes with the U.S. There is no transparency
8 or accountability to determine the extent of
9 labor rights violations, indigenous rights, as
10 well as other trade-related violations such as
11 competitive financial and commercial access.

12 And moreover, the extent of discretion
13 that the government use to favor one business
14 over the other has created this discriminatory
15 practice that makes for unfair competition
16 against the United States businesses, at times
17 favoring other companies. I hope that was a
18 better -- a clearer answer. And thank you for
19 the opportunity.

20 MS. MORA: I just want to add
21 something on the question on rule of law. To
22 this day the government continues to kidnap,

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1 jail, and convict citizens arbitrarily without
2 any due process and with the complicity of the
3 judicial system, which has been entirely co-opted
4 by the Sandinista regime. But I would also add
5 that the government is adopting new
6 organizational forums, particularly paramilitary
7 groups that are supportive of the regime.

8 Just yesterday and in recent weeks,
9 but continuing yesterday, about 3,000 individuals
10 have been sworn in to become members of these
11 groups in order to persecute, control, and
12 maintain surveillance over citizens. And the
13 government is now legalizing these paramilitary
14 groups, institutionalizing them so they continue
15 this work of surveillance and persecution.
16 That's all I wanted to add. Thank you.

17 CHAIR GRIMBALL: Thank you. And we
18 release Panel 2. Thank you for your
19 participation and your very personal testimony at
20 times. We'll take all of this information and
21 any supplementary comments into consideration.

22 Let's regroup at 2:25 for Panel 3.

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1 Thank you.

2 (Whereupon, the above-entitled matter
3 went off the record at 2:12 p.m. and resumed at
4 2:25 p.m.)

5 CHAIR GRIMBALL: Thank you.

6 Before moving on to Panel 3, I
7 understand that there was some question from the
8 audience about the opportunity to present
9 rebuttal submissions and what exactly is meant by
10 that.

11 So, beginning at 12:01 tomorrow, an
12 electronic portal will open to receive written
13 submissions. It's going to be the same website
14 that you all went to in order to provide your
15 request to appear and summary of testimony and
16 comments. And that website is comments.ustr.gov.
17 It is also listed in The Federal Register. Once
18 you navigate to that page, you will click on the
19 appropriate docket to provide your written
20 submission.

21 And again, if you would like to
22 provide confidential submissions in any format,

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1 there is an opportunity to do that and a number
2 for our hotline, so that you can get guidance on
3 how to do that, should you have any questions.

4 To clarify, the opportunity for
5 rebuttal submissions and responses is just a
6 written opportunity. There will not be a second
7 hearing for that purpose. And again, those
8 comments are due on the 23rd and that portal
9 opens tomorrow morning at 12:01 a.m.

10 And so, with those housekeeping
11 details, we shall begin with Panel 3. I
12 understand we only have four witnesses for Panel
13 3 instead of the five.

14 And we can begin, if you would like
15 to.

16 MS. THOMPSON: Our first panelist will
17 be Yubrank Suazo Herrera of Civic Alliance for
18 Justice and Democracy.

19 MR. SUAZO (Speaking through
20 translator): My name is Yubrank Suazo Herrera.
21 I was a political prisoner under the Daniel
22 Ortega and Rosario Murillo regime from September

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1 2018 to 2019, and again, from May 2022 to
2 February 2023.

3 I have been a victim of persecution,
4 state violence, the revocation of my citizenship,
5 and forced exile, due to my peaceful activism in
6 defense of human rights. Today, I testify to
7 these grave human rights violations and the
8 absence of the rule of law in my home country
9 Nicaragua.

10 Since April 2018, the Sandinista
11 regime has responded with extreme brutality to
12 any form of dissent. As a leader of the April 19
13 civil movement in Masaya, I witnessed how
14 government forces violently suppressed protests,
15 resulting in over 30 deaths and the destruction
16 of numerous businesses and homes in my community.

17 The repressive policies and climate of
18 insecurity fostered by the Ortega-Murillo regime
19 have had devastating consequences for producers,
20 Americans, artisans, and workers.

21 On July 4, 2018, paramilitary forces
22 set fire to my family's business of handmade

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1 hammocks, a trade that had sustained us for over
2 40 years and allowed us to export to the United
3 States and Europe.

4 My case is one of many. I could also
5 mention the case of the confiscation of the
6 building, the American States Organization,
7 representation OAS, in Nicaragua was renting,
8 which was owned by American citizens; the
9 arbitrary shutdown of trade union organizations
10 like the Maria Elena Cuadra Union; the suspension
11 of business licenses, and the revocation of legal
12 status for over 5,000 non-government
13 organizations whose properties were confiscated.

14 The regime of Daniel Ortega and
15 Rosario Murillo spares no one. Its strategy of
16 repression has impacted investors and
17 entrepreneurs and both national and foreign
18 organizations.

19 In Nicaragua, there is no rule of law.
20 Investments can be confiscated or violently
21 destroyed at the whim of the regime operatives.
22 Under the regime, there are no legal guarantees.

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1 After the destruction of my home and
2 business, I was arrested on September 10th, 2018,
3 in Chichigalpa and taken to El Chipote Prison.
4 There, I endured violent interrogations, threats,
5 and inhumane conditions. I spent 14 days in a
6 2x3-meter cell infested with roaches and
7 mosquitos with no access to water and inadequate
8 meals; no access to hygiene products. I was then
9 transferred to the maximum security prison in
10 Tipitapa, where I suffered both physical and
11 psychological abuse.

12 On March 7, 2019, the prison director,
13 Roberto Guevara, brutally assaulted me until he
14 broke my nose and I suffered permanent damage to
15 my left eye. Following this attack, I was placed
16 in a punishment cell known as "El Infiernillo,"
17 or "The Little Hell."

18 On May 18th, 2022, I was arrested a
19 second time without a court order during a
20 violent raid on my home, during which my father
21 was assaulted and our property damaged.

22 For six months, I was held in a

1 punishment cell under constant surveillance with
2 no access to books or even a Bible. I was
3 forbidden from praying or communicating with
4 other prisoners.

5 During a severe hypertensive crisis,
6 I was taken to the maximum security clinic, but
7 my family was not informed of my condition. And
8 repeated requests from the International Red
9 Cross to access my medical records were denied.

10 We were also forced to sign a silence
11 agreement under threat of reprisals. Despite
12 that the Inter-American Commission on Human
13 Rights extended precautionary measures for my
14 protection in June 2022, the regime ignored them.

15 On February 9, 2023, I was deported
16 alongside 221 political prisoners, stripped of my
17 citizenship, and forced into exile.

18 CHAIR GRIMBALL: Before you begin, we
19 are approaching or we have surpassed the time.
20 Are you able to conclude, and then, provide your
21 additional comments in writing?

22 Could you communicate (speaking to the

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1 interpreter)?

2 MR. SUAZO: The absence of the rule of
3 law not only has shattered our social fabric of
4 our country, but has also dismantled the economy,
5 trapping the nation in a vicious cycle of
6 underdevelopment, poverty, and dependency.
7 Without justice, transparency, or strong
8 institutions, no country can hope to prosper or
9 secure a dignified future for its citizens.

10 I call on this office to take decisive
11 action. It is imperative to condemn this regime
12 that undermines democracy and to implement robust
13 measures that ensure respect for human rights,
14 labor rights, and the rule of law in Nicaragua.

15 Thank you.

16 MS. THOMPSON: Thank you.

17 Our next panelist will be Julio
18 Martínez, Expediente Abierto, Fundación del Rio,
19 and the Patrol Campaign.

20 MR. MARTÍNEZ: Chairperson and Members
21 of the Committee, thank you for the opportunity
22 to speak today.

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1 Nicaragua's prosperity and peace fully
2 depend on the establishment of the rule of law to
3 protect its most vulnerable populations and the
4 preservation of its forests and water sources.
5 Towards those goals, Expediente Abierto,
6 Fundación del Rio, and the Patrol Campaign have
7 submitted a report providing evidence on how
8 certain aspects of the country's commerce with
9 the United States are being exploited to the
10 detriment of these basic needs -- all while
11 distorting international trade.

12 The first sector I would like to
13 highlight is mining. Despite American sanctions,
14 the Nicaraguan mining industry remains the
15 largest in Central America with the U.S. as its
16 biggest importer. However, this sector
17 significantly contributes to the economic
18 advantages for those connected to the government
19 and to the deterioration of the rule of law in
20 the country.

21 It achieves this through opaque
22 mineral sourcing practices; imposing concessions

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1 on indigenous and Afro-descendant communities
2 without consultation; repressing these
3 communities' ability to protest, and causing
4 environmental degradation. I'll provide a few
5 examples.

6 Around 30 percent of Nicaraguan gold
7 comes from artisanal mining, which Fundación del
8 Rio has demonstrated includes illegal mining
9 within protected areas. This gold, which is
10 extremely difficult to trace, is then processed
11 by international firms in the country and
12 exported.

13 Meanwhile, opaque accounting means
14 that Nicaragua exports approximately 30 percent
15 more gold than is reported as being produced in
16 the country. This situation raises important
17 questions about which undisclosed entities
18 aligned with the regime benefitted from those
19 exports.

20 However, the human suffering that this
21 industry causes is clear. To generate these
22 exports, indigenous and Afro-descendant

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1 communities are displaced to provide these
2 concessions without the process of free, prior,
3 and informed consent required by international
4 norms.

5 Meanwhile, the arbitrary shutdown of
6 environmental and human rights organizations
7 allows the government and its allies to operate
8 without facing local dissent. It is evident that
9 the human rights of the most vulnerable people in
10 the country are sacrificed for the benefit of
11 entities in the mineral sector aligned with the
12 government.

13 Similarly, beef that reaches the U.S.
14 markets from Nicaragua has also been tied to
15 illegal deforestation and human rights abuses.
16 Nicaragua exports about 140 million pounds of
17 beef to the United States every year. Despite
18 assurances from the local industry regarding the
19 traceability of their product, the research
20 provided by the Patrol Campaign as part of its
21 investigation presents definitive evidence that
22 some of the exported beef originates from cattle

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1 illegally grazed in protected areas. This
2 activity occurs with the government's complicity
3 involving cows that are part of a national
4 traceability system established with USDA and IDB
5 support meant to prevent such practices.

6 Furthermore, these lands are seized
7 forcefully from indigenous and Afro-descendant
8 communities on the Caribbean coast who depend on
9 it for their livelihoods, culture, and survival.
10 As I speak, 12 rangers and indigenous leaders are
11 imprisoned in Nicaragua for defending their
12 territories, and this forcible expropriation of
13 land has led to the deaths of 46 community
14 members and indigenous rangers since 2018.

15 In summary, the Nicaraguan beef
16 industry benefits from price distortions made
17 possible by illegal grazing in protected areas in
18 violation of indigenous rights.

19 The environmental impact of the beef
20 industry is also devastating. Since Ortega
21 returned to power in 2007, the country has lost
22 almost 30 percent of its primary forests, driven

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1 primarily by illegal cattle ranching producing
2 beef for international markets, particularly in
3 protected areas and indigenous territories like
4 Indio Maiz and Bosawas as protected reserves.
5 This practice also negatively affects the
6 country's water sources and increases its
7 vulnerability to droughts and climate change.

8 Our report also highlights labor
9 violations in the country. The Nicaraguan state
10 has dismantled institutions protecting workers'
11 rights, defying national and international norms.
12 It has accomplished this by severely reducing and
13 weakening unions; dismantling institutions that
14 safeguard labor rights; ignoring worker
15 complaints, and suppressing any attempt to
16 protest or strike. This has left workers
17 vulnerable and unprotected when facing unfair
18 working conditions, even though Nicaragua is a
19 signatory to international labor conventions.

20 To address these urgent issues, our
21 organizations urge all international actors
22 conducting business with Nicaragua, particularly

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1 in the beef and minerals industries, to take
2 measures to ensure their operations do not
3 contribute to enriching individuals associated
4 with the totalitarian regime; the death and
5 displacement of vulnerable communities, or
6 environmental destruction in the country.

7 Some necessary actions should include:

8 Prohibiting the import of beef sourced
9 from illegally deforested land and minerals
10 without legitimate traceability into the U.S.
11 market.

12 Implementing measures to penalize or
13 sanction individuals and companies benefitting
14 from these illegal activities.

15 Demand the establishment of public and
16 transparent traceability systems and independent
17 verification mechanisms for minerals and beef.

18 The establishment of efficient
19 complaint mechanisms for communities.

20 Providing public information on mining
21 concessions.

22 And requiring companies to perform due

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1 diligence on forest-risk communities to ensure
2 they are not contributing to deforestation and
3 human rights abuses.

4 These points should also be
5 incorporated into any future trade agreements
6 within country, including during any
7 renegotiation of the CAFTA-DR trade deal.

8 Taking these steps will ensure that
9 commerce between Nicaragua and the United States
10 genuinely benefits both populations without
11 inflicting the immense harm we currently see.

12 Thank you for your time and I look
13 forward to answering any questions you may have.

14 MS. THOMPSON: Thank you.

15 Our next panelist is Anexa Alfred,
16 indigenous peoples' rights.

17 MS. ALFRED: (Foreign language spoken)
18 -- greeting in my mother tongue, Miskito.

19 My name is Anexa Alfred Cunningham.
20 I am a Miskito leader from the Mayangna
21 indigenous territory, a defender of indigenous
22 and collective rights of indigenous people and

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1 Afro-descendants, persecuted, criminalized,
2 banished, and stigmatized by the government of
3 Nicaragua. My crime -- to be a woman, to be
4 indigenous, to be a defender, to be a U.N.
5 expert.

6 Today I address you as one of more
7 victims who voice dissent against the government
8 that Ortega has wanted to silence, and who today
9 is the voice of many indigenous women leaders who
10 would like to be here and are silenced by the
11 policy of terror, persecution, exile threat of
12 the government of Nicaragua.

13 Allow me to introduce my background.
14 I hold a master's degree in indigenous people,
15 law, and policy from the University of Arizona.
16 For 20 years, I have been working at the local,
17 regional, and international level on indigenous
18 peoples' rights.

19 I contribute to the process of
20 demarcation and tightening of indigenous people
21 and Afro-descendant territories, promoting
22 different legislation reform relating to the

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1 rights of the indigenous peoples in Nicaragua.

2 I was the first indigenous lawyer and
3 the first Nicaraguan who worked as a Human Rights
4 Specialist at the Secretariat of the
5 Inter-American Commission on Human Rights.

6 Forbes magazine named me amongst the
7 100 most Powerful Women in Central America in
8 2024.

9 In April of 2022, I was appointed as
10 a member of the Expert Mechanism on the Rights of
11 Indigenous Peoples of the United Nations, a
12 subsidiary body of the Human Rights Council.

13 Because of my work as a human rights
14 defender, indigenous leader, and a U.N. expert,
15 in 2022, I was banished by the Ortega regime and
16 forced to exile in Switzerland, where I am
17 currently living under refugee status.

18 My testimony is not in my capacity of
19 a U.N. expert. I will provide information
20 regarding the persecution, criminalization, and
21 banishment that I am being subjected to by the
22 Sandinista government.

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1 The persecution takes place within the
2 framework of our ethnic genocide policy against
3 indigenous people and Afro-descendants. It's a
4 process ongoing and it shows in the persecution,
5 criminalization, banishment, and forced exile of
6 indigenous community leaders, as well as the
7 displacement from their land, ancestral
8 territory, and natural resources, which
9 constitutes violation of human rights, labor, and
10 the rule of law.

11 Thirty percent of Nicaraguans
12 recognize themselves as indigenous people or
13 Afro-descendants. They live in 304 communities
14 in 23 territories, which represented 32 percent
15 of Nicaraguan territories. These communities
16 maintained their traditional way of life, social
17 and political organization, and relation with
18 their ancestral land, and their governance
19 originates out of autonomy based on the right of
20 self-determination.

21 In recent years, the enjoyment of
22 these collective and individual rights, including

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1 the right over land, territory, and natural
2 resources, as well as the self-determination of
3 life and liberty, have dramatically deteriorated
4 as a result of the widespread invasion of the
5 territories and an ongoing governance conflict
6 with the indigenous settlers and companies, and
7 the illegal trafficking of timber and other
8 natural resources.

9 The situation has significantly
10 worsened with the close of civic space and the
11 consolidation of the totalitarian recent
12 government in Nicaragua. Let me now give you
13 some specific examples regarding this pattern.

14 The invasion, displacement, and
15 locking of territory by known indigenous
16 settlers, as well as by national and foreign
17 companies, generate violence and incite it in the
18 communities, the most affected being girls and
19 women.

20 Between 2020 and 2023, three massacres
21 took place in the Miskito and Mayangna
22 communities in the North Caribbean Region. This

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1 is the case of the Alal community in 2020, the
2 Kiwakumbai in 2021, and the Wilu community in
3 2023. These massacres perpetrated by foreign
4 settlers led to a total of 20 indigenous deaths,
5 including women and children; torture and gender
6 violence first, and displacement of entire
7 communities, generating an unprecedented
8 humanitarian crisis.

9 All the pattern is the repression,
10 persecution, and criminalization of individuals
11 and communities and organizations. An example of
12 this: the arbitrary arrest, enforced
13 displacement, and other reprisal measures against
14 indigenous peoples' leaders and human rights
15 defenders, including religious leaders such as
16 the case of Brooklyn Rivera, who reminds us that
17 ever since his arrest in September 2023 and still
18 not found since September 2024.

19 The prohibition entirely to the
20 country incited expulsions, civil unrest, and
21 others just like my case. Regarding my personal
22 situation, after my first time I participated an

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1 expert member of the U.N., and the night of July
2 when was about to board the flight from Geneva to
3 Nicaragua, I was informed by the airline that I
4 could not board the flight because the government
5 of Nicaragua did not authorize my entrance into
6 the country.

7 Imagine leaving your home one morning,
8 leaving your children, husband, wife, mother, or
9 father, and going to a trip for five days, and
10 then, not being able to return to your house
11 because a government decided. Wake up and
12 realize that everything you've built in your life
13 no longer exists -- your career, your home, your
14 homeland. Imagine waking up with nowhere to go,
15 nowhere to be, nowhere to return.

16 It's a nightmare that I haven't waked
17 up from yet and I was left in limbo with nothing.
18 As a single mother, the situation of my two
19 underaged children and was unconcerned. The
20 house where we lived in Nicaragua, in Mayangna,
21 under constant government against -- which put my
22 children in a fit, unfortunately. After three

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1 months, they arrived to Switzerland where they
2 live with me.

3 And the ongoing prohibition to enter
4 my own country of my nationality constitutes a
5 denial of human rights, including the right of
6 freedom of movement under Article 12 of the
7 Convention on Civil and Political Rights,
8 referred by Nicaragua.

9 Moreover, as an expert with a mandate
10 from the U.N. --

11 CHAIR GRIMBALL: Please conclude.

12 MS. ALFRED: -- nation body and for
13 the duration of the mandate, I enjoy full
14 privilege and immunity granted by the Convention
15 of Privileges and Immunities.

16 To conclude, I would like to say that
17 the government of Ortega has been promoting ethnic
18 genocide, the policy against indigenous and
19 Afro-descendant people to give way to a policy of
20 extensive economic production that favors a large
21 stock of manufacturers of timber and mining
22 industries, amongst others, and involves

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1 extensive exploitation of land and the resources
2 of indigenous territory which has generated
3 systematic violence and first displacement of
4 indigenous communities from their ancestral land.

5 Instead, Nicaragua is responsible for
6 zero systematic help --

7 CHAIR GRIMBALL: Please conclude, Ms.
8 Alfred. Please conclude.

9 MS. ALFRED: -- with brave endurance
10 --

11 CHAIR GRIMBALL: Thank you. Thank
12 you.

13 MS. THOMPSON: Our last panelist is
14 Medardo Mairena Sequeira, Movimiento Campesino de
15 Nicaragua.

16 MR. MAIRENA (Speaking through
17 translator): Thank you.

18 My name is Medardo Mairena Sequeira,
19 founder and former coordinator of the Peasant
20 Farmer Movement of Nicaragua, MCN.

21 I was a pre-candidate for President.
22 I was unjustly sentenced to 229 years in prison,

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1 banished to the United States, and stripped of my
2 nationality.

3 Our movement faced the claims of the
4 Ortega-Murillo regime to build, or their effort
5 to build an Interoceanic Canal that was going to
6 happen through a corrupt agreement to sell out
7 our national sovereignty, seeking to deprive us
8 of our right to work the land, our only means of
9 subsistence, without fair compensation, without
10 any alternatives for relocation.

11 Ours was a civic struggle, and through
12 legal remedies that went nowhere because of state
13 control by these dictators, what we got was
14 repression and persecution, which continues
15 against all members of our movement.

16 The crimes against humanity detailed
17 by the group of experts on human rights in
18 Nicaragua and by the Special Roundtable in
19 Nicaragua of the OAS Human Rights Commission have
20 affected many members of our peasant movement
21 with imprisonment for members and leaders
22 throughout Nicaragua, assassination of local

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1 leaders.

2 Personally, I've been jailed twice.
3 I was the victim of psychological and physical
4 torture, including threats made against my
5 family.

6 The first time I was detained
7 arbitrarily by the national police on July 13th,
8 2018, in the first 13 days of this detention I
9 was interrogated and beaten; I was physically and
10 psychologically tortured. They interrogated me
11 and they wanted information about my family
12 members. The objective of that torture was for
13 me to make accusations against the Nicaraguan
14 Catholic Church Bishops Council to be supposedly
15 plotting a coup d'etat.

16 They tortured me, threatening to kill
17 my family -- first, my children. They said that
18 they would bring me a video where they would show
19 me my 3-year-old daughter cut up into little
20 pieces, then they would go after my two young
21 sons, their mother, then, my father, my sisters,
22 until finishing off my entire family. When I

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1 refused to give in, they transferred me to a
2 punishment cell in subhuman conditions.

3 I was convicted with no due process
4 guarantees, no evidence, and no right to defense
5 by judges who acted as executioners. After I was
6 in La Modelo Prison for 330 days, I was released
7 through an amnesty law.

8 The second time I was arbitrarily
9 arrested, national police agents and
10 paramilitaries arrested with the use of excessive
11 violence without showing any judicial warrant and
12 without respecting the international measures of
13 protection that had been issued by the
14 Inter-American Commission on Human Rights and the
15 Inter-American Court of Human Rights.

16 I was in prison for 19 months, until
17 on 9 February 2023, I was expatriated, along with
18 221 political prisoners to the United States.

19 In addition, the peasant farmers of
20 Nicaragua continue suffering serious human rights
21 violations and labor rights violations without
22 the state adopting any measures to protect them

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1 with total impunity.

2 The Group on Human Rights in Nicaragua
3 adopted a Report on Violations and Abuses of
4 Human Rights Against Peasant Farmers in
5 Nicaragua.

6 The group of experts has determined
7 that there have been serious violations of human
8 rights, human rights abuses against peasant
9 farmers who organized around our movement,
10 participating in protests in 2018. These include
11 violations and abuses of the rights to freedom or
12 the rights to personal liberty and personal
13 security; procedural guarantees for a fair trial;
14 being subjected to acts of torture and other
15 cruel, inhuman, or degrading treatment or
16 punishment, among others, which are crimes
17 against humanity. These include being in prison,
18 tortured, exiled, and persecuted for political
19 reasons.

20 CHAIR GRIMBALL: Please conclude just
21 within one minute, please.

22 MR. MAIRENA: Being banished and

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1 forcibly exiled is a form of permanent torture.
2 Nonetheless, we have continued to commit to
3 defending human rights and fundamental freedoms
4 of Nicaraguans, especially the most unprotected
5 and vulnerable sectors, which include peasant
6 farmers.

7 We hope that our voice is heard
8 through this inquiry.

9 Thank you so much for allowing me to
10 come before you today.

11 CHAIR GRIMBALL: Thank you.

12 And thank you to the witnesses, and I
13 appreciate you all being understanding of the
14 time, as we try to facilitate those with
15 translators and those without.

16 At this time, we will turn to
17 questions from the government agencies.

18 MS. SILVERSMITH: Thank you.

19 This first question is for Mr. Suazo
20 Herrera.

21 You described in your testimony your
22 experiences as a leader of the April 19th civic

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1 movement, including being attacked by Sandinistas
2 with police support while protesting; that your
3 home and business was burned; that you were
4 arrested without court order; that you suffered
5 cruel, inhumane, and degrading treatment and
6 torture while a prisoner, and that you were
7 banished from Nicaragua and your nationality was
8 stripped.

9 Has the forced dissolution of civil
10 society organizations, like the April 19th
11 movement, affected the investment climate and
12 market access to the Nicaraguan market for U.S.
13 firms?

14 MR. SUAZO (Speaking through
15 translator): Not just our 19th of April
16 movement, which has been an expression of
17 citizens coming forward to support and defend our
18 constitutional rights; it's also had a negative
19 impact on various commercial entities, especially
20 those that have been supportive of our rights and
21 of the idea that folks in Nicaragua should have
22 rights.

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1 MS. BACON: Thank you.

2 This question is also for Mr. Suazo.

3 Could you clarify, when you were
4 imprisoned, were you granted any access to a
5 lawyer and did you have any trial or other legal
6 proceedings?

7 MR. SUAZO: This right was denied to
8 me, like it was for the other political prisoners
9 who were arrested in the wake of the protests of
10 2018, when I was arrested at that time.

11 Also, when I was arrested once again
12 in 2021, these rights were denied, particularly
13 the right to due process and the right to
14 defense.

15 MR. HUFFMAN: I'll continue on that
16 track.

17 When you were stripped of your
18 Nicaraguan nationality, was there any type of
19 trial or legal proceeding where you were able to
20 mount a defense or be heard? Did you have an
21 opportunity during that process for legal
22 representation?

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1 MR. SUAZO: None of the 222 former
2 political prisoners, those of us who were sent to
3 the United States, were able to appeal this
4 arbitrary decision taken against us. This is a
5 violation of our constitutional rights and of our
6 human rights.

7 There are, indeed, more than 300
8 Nicaraguans who have been illegally stripped of
9 their nationality, and today, there are
10 approximately 100 Nicaraguans who de facto are
11 stateless persons today.

12 MS. BACON: Thank you.

13 My next question is for Mr. Martinez.

14 How significant a role do U.S.
15 companies play in the mining and processing of
16 minerals in Nicaragua?

17 MR. MARTÍNEZ: Most of the mining is
18 carried out by Canadian and Colombian companies.
19 The U.S. presence is more through investments.
20 As a report shows, there's been many investors in
21 those companies, about 48 U.S. entities that have
22 been linked to mining in Nicaragua.

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1 I think that the biggest connection is
2 more with the import, where the majority of the
3 imports, or the exports of those minerals are to
4 the United States.

5 MR. SAVAGE: Thank you, Mr. Martinez.

6 Are there any particular acts,
7 policies, or practices of the government of
8 Nicaragua relating to the mining sector that have
9 negatively impacted human rights, labor rights,
10 and the rule of law in Nicaragua?

11 MR. MARTÍNEZ: Yes. To start, they
12 have incited that the plants that process
13 minerals in Nicaragua accept artisanal mining,
14 which in many cases is done in the national
15 reserves. So, the whole issue of traceability is
16 something that encourages both the ecological
17 devastation of the country, and also, there is
18 the fact that in many cases those concessions --
19 Fundación del Rio found over 140 cases in which
20 concessions were done without the process of
21 prior consultation. So, essentially, the local
22 communities were pushed out of their lands

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1 without this consultation to give those rights to
2 mining companies.

3 MR. VAN PATTEN: Thank you.

4 Similarly to my colleague, I'd like to
5 ask about any particular acts, policies, and
6 practices of the government of Nicaragua related
7 to the beef sector that negatively impact human
8 rights, labor rights, and rule of law, and how
9 these practices impact U.S. commerce.

10 MR. MARTÍNEZ: Sure. Nicaragua is
11 responsible for overseeing the national
12 traceability system of the beef in the country.
13 So, they have a system where every head of cattle
14 has a number. Correct? And so, they provide the
15 supervision for that along with the industry.

16 However, what the Patrol Campaign
17 found, and has provided evidence to this as part
18 of this investigation, is that the cattle with
19 these numbers are also in the national reserves.
20 The cattle are grown in the national reserves,
21 also displacing indigenous and Afro-descendant
22 communities in the autonomous regions in the

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1 Carribbean Coast. And that cattle is later sold
2 to the major meat-processing plants, which are
3 then going to export.

4 And as I mentioned before, the vast
5 majority of exports of beef from Nicaragua comes
6 to the United States. So, there's many
7 statements and laws that have been passed that
8 talk about traceability and that assure
9 traceability, that one can trace the meat that
10 comes into the U.S. to specific cows and legal
11 farms. However, as you will see in our reports,
12 there's plenty of evidence of photos and
13 satellite imagery that show that this is really
14 done in the natural reserves.

15 And part of what we say here is not
16 only is it a complete degradation of the
17 environment Nicaragua and of the communities
18 affected by the displacement, it also means that
19 they are working on free land, which is a price
20 distortion for anyone that's competing with that
21 beef.

22 So, what we urge is that there's an

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1 independent accountability system to ensure that
2 the beef being imported into the U.S. can truly
3 be traced to legal sources and not part of the
4 destruction of the country's ecology.

5 MR. HUFFMAN: Thank you.

6 Similarly to that, can you explain a
7 little more -- you know, you described the
8 country exports about 30 percent more gold than
9 it reports as being mined. Can you describe how
10 that has an impact on U.S. commerce?

11 MR. MARTÍNEZ: Sure. So, as much of
12 Nicaraguan civil society has pointed out, the
13 numbers of -- for example, gold exports are about
14 30 percent larger than what's reported by the
15 Ministry of Mines as being produced. And there's
16 no explanation for this and there's been
17 continuous questions about his.

18 The biggest way that we think that it
19 contributes, first, to the degradation of the
20 rule of law is that there's really no way of
21 knowing who is benefitting from this. Is it even
22 gold that's produced in the country? There's

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1 been accusations from other groups -- for
2 example, Venezuelan groups -- that assure that
3 Nicaraguan gold is Venezuelan gold, subject to
4 the sanctions as being laundered through
5 Nicaragua.

6 So, the first large worry is, what
7 groups that could be affecting human rights in
8 Nicaragua are benefitting from this trade which
9 is currently non-traceable?

10 I believe, surely, that also affects
11 and puts American companies and investors who
12 import them at risk, given that they may be
13 importing from groups that they would not like to
14 be importing from, but the traceability is not
15 possible at this moment.

16 MS. SILVERSMITH: Mr. Martinez, you
17 stated that the Nicaraguan state has dismantled
18 the institution set up to protect workers'
19 rights, which has left workers vulnerable and
20 unprotected when facing unfair working
21 conditions. Could you please elaborate on how
22 the government of Nicaragua has affected labor

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1 rights --

2 MR. MARTÍNEZ: Yes.

3 MS. SILVERSMITH: -- in 2018, and what
4 impact, if any, the government's acts, policies,
5 and practices with respect to labor rights have
6 had on the wages of workers in the region?

7 MR. MARTÍNEZ: Thank you for the
8 question.

9 So, as many of my colleagues have
10 mentioned, the majority of civil society
11 organizations in the country have been cancelled.
12 Of those, over 500 were unions, were labor
13 organizations. So, first, they've been
14 cancelled.

15 Second, the government has refused to
16 provide certifications, repeatedly refused to
17 provide certifications for new unions in the
18 country. And that's been documented, also, by
19 the national labor organization.

20 In many cases in which the cases have
21 been brought to the courts of labor violations
22 within the free trade areas, for instance, many

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1 of those cases have been brushed aside,
2 essentially. We cite one case, one, say, legal
3 organization that represents workers who say that
4 they used to normally be able to win cases of
5 workers against companies, but, say, for last
6 year, out of 30 that they represented, only one
7 won their case.

8 In general, there's a huge, I'd say,
9 bias towards the companies that also align to the
10 government against the workers.

11 Also, say, the number of cases that
12 have made it to the labor courts has been
13 severely reduced and they are no longer
14 published. Before, there used to be legal public
15 processes that were published on their website
16 and they haven't been published since 2016.

17 And I could go on. There are other
18 examples. Protesting in the country has been
19 illegal since 2018 and that includes labor
20 protests. So, limiting the right of Nicaraguan
21 workers to express any kind of dissatisfaction
22 with their situation definitely affects their

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1 ability to improve, say, the state of their work.

2 I would say that one way in which this
3 affects trade in general and trade with the
4 United States is that this is, essentially, not
5 only violating their rights, but it's also wage
6 suppression. If they can't in different ways
7 work towards improving their wages and work
8 towards protecting their rights, it means that
9 they will be paid less than they would be
10 otherwise, and as an effect, it's also an unfair
11 distortion of prices from the country, which also
12 affects trade with any potential partner.

13 CHAIR GRIMBALL: Hi, Mr. Martinez. I
14 have an additional question for you.

15 And also, Ms. Alfred, you should feel
16 free to answer this as well, because I think you
17 both spoke on the subject of indigenous lands and
18 use of indigenous resources.

19 Can you hear me okay?

20 MS. ALFRED: Yes.

21 CHAIR GRIMBALL: Okay. So, when
22 discussing indigenous lands and resources, you

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1 both used the term "illegally"; that these things
2 are being done illegally by the government. And
3 I believe you both referenced free and informed
4 prior consent coming from the UNDRIP likely.

5 But my question on illegality: prior
6 to this government administration coming into
7 place, did Nicaragua have specific laws that
8 protected -- I mean, national legislation that
9 protected indigenous lands and provided for
10 indigenous peoples' rights, independent of the
11 international instruments that you all mentioned?
12 And if so, where did those laws go? When did
13 that happen? What were the circumstances
14 underlying that? What do you think the
15 motivation was?

16 So, to Mr. Martinez first, and, Ms.
17 Alfred, if you wanted to answer that, as you are
18 up next anyway, feel free to as well.

19 Thank you.

20 MR. MARTÍNEZ: Actually, maybe I'll
21 let Anexa start, and I'll complement.

22 MS. ALFRED: Thank you so much for the

1 question, but I'm going to respond in Spanish
2 because I feel more comfortable. So, maybe I can
3 have the translator.

4 MS. ALFRED (Speaking through
5 translator): Collective rights of
6 Afro-descendant and indigenous peoples in
7 Nicaragua have been protected by the constitution
8 of Nicaragua. This is the result of lengthy
9 struggles, both political struggles and
10 indigenous peoples' struggles, and demands from
11 the international community.

12 Nicaragua is a signatory to several
13 international human rights instruments and, also,
14 specific instruments on indigenous peoples'
15 rights. And this includes the U.N. Declaration
16 on Indigenous Peoples' Rights, the Inter-American
17 Declaration on Indigenous Peoples' Rights, and
18 ILO Convention 169, which recognizes the rights
19 to land and territory of indigenous peoples.

20 Nicaragua has always been at the
21 vanguard, indeed, in recognizing indigenous
22 peoples' rights in its constitution and

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1 legislation, but this is not just because this is
2 what those who framed those instruments decided.
3 It's the result of long struggles of the
4 indigenous peoples themselves. And as a result,
5 oftentimes, the rights have not been respected,
6 even though they're on the books, and this has
7 led to many actions before international fora,
8 such as the Inter-American Commission on Human
9 Rights, to seek enforcement of those rights.

10 So, indeed, there was an emblematic
11 case in the Inter-American Human Rights system
12 known as the Awas Tingni case, which is the first
13 time that collective property rights of peoples
14 were recognized in inter-American human rights
15 law. That was in 2001 and it recognized rights
16 to land, rights to natural resources, and it's
17 been cited as a key case.

18 But, in practice, these very same
19 communities have been victims in violations of
20 their rights. So, a new case was brought in
21 2005, for example, by the indigenous political
22 organization Yatama. And it was a case of the

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1 failure to recognize the right to
2 self-determination in relation to political
3 rights.

4 There was another case that was
5 brought by the Rama and Kriol peoples before the
6 Inter-American system and that had a more recent
7 decision. And this was against the building of
8 the Interoceanic Canal, which was going to have a
9 very detrimental impact on these peoples as well.

10 And these projects went forth without
11 consultation with these peoples. So, yes,
12 formally, there's great recognition of rights,
13 but, in practice, there has been actually
14 genocidal attacks against our peoples.

15 And just one more thing. All these
16 legislative advances that have been the result of
17 the struggle and even many people dying --
18 indigenous peoples, and particularly, the
19 Miskito, of which I'm a part of -- are being
20 rolled back under a current constitutional reform
21 which seeks to repudiate prior recognition and to
22 place all decisions over indigenous lands and

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1 territories under the presidential couple who
2 are, basically, at the helm of this dictatorial
3 government.

4 MR. MARTÍNEZ: So, I think that Anexa
5 gave a perfectly comprehensive explanation of the
6 legalities. So to connect it to what we were
7 saying, essentially despite all those legal
8 protections, not only are some of the lands being
9 provided to mining concessions without that prior
10 consent but also the illegal deforestation for
11 the beef industry is also going into those lands,
12 without any kind of pushback.

13 Both of these industries working often
14 very close to state or military bases, and so
15 there's never any kind of pushback. So, the
16 complicity with the agents that are pushing
17 people away, off these lands, is clear.

18 CHAIR GRIMBALL: Thank you. Does
19 anyone else?

20 MS. BACON: If I could follow up on
21 the -- on what you've described as the taking of
22 indigenous lands, I just was wondering if -- and

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1 this is perhaps again for either Mr. Martinez or
2 Ms. Alfred, or both of you -- if you could
3 elaborate on how those takings impact U.S.
4 commerce?

5 I think I understood Mr. Martinez to
6 be saying that the cattle grazing is part of that
7 -- if I've misunderstood that, please correct me.
8 But if you could provide some further thinking on
9 that, either now or this is something that you
10 could also include in your -- in post-hearing
11 submissions as well, that would be helpful.
12 Thanks.

13 MR. MARTÍNEZ: Exactly, so what seems
14 to the industry like free land is the result of
15 these human rights violations. And, of course,
16 part of what we're saying is that that does
17 distort, say, international commerce, because one
18 of the main, say, variables of the production is
19 done through illegal sources, and makes it
20 cheaper. So, clearly this would affect, say, the
21 competition against perhaps U.S. beef producers.
22 That is one thing that we're seeing.

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1 Of course, our major interest is the
2 livelihoods of people being affected and the
3 deforestation but, when it comes to the commerce,
4 we do see that as a way that it is affecting
5 international commerce as well. Does that
6 respond your?

7 MS. BACON: Yes, thank you.

8 MR. HUFFMAN: Thank you. I will
9 continue with a question for Ms. Alfred. So, not
10 specific to indigenous land, but could you please
11 describe the Nicaraguan government's acts,
12 policies and practices with respect to human
13 rights of indigenous and Afro-descendant people
14 in Nicaragua?

15 MS. ALFRED: Thanks. The situation of
16 persecution and banishment, criminalization, and
17 death of indigenous peoples is something -- or in
18 general has not been limited to the, or isolated
19 to the Pacific side of Nicaragua, where most of
20 the population is. Most of the indigenous
21 population is on the Atlantic or Caribbean side
22 of the country, occupying about 32 percent of the

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1 land.

2 And these difficult and -- situations
3 of violations of human rights predate 2018 by
4 many years. So for example, in 2015 the
5 Inter-American system Commission and Court issued
6 precautionary and provisional measures, to
7 safeguard the lives of indigenous leaders and
8 community members who were working to safeguard
9 indigenous rights.

10 So, this shutdown of the civic space
11 in the country has had a specifically negative
12 effect for the indigenous peoples, there's
13 organizations, Nicaraguan organizations and
14 religious organizations, that have supported the
15 indigenous people. So, with these being
16 persecuted, there's a negative impact for the
17 indigenous peoples as well, because this
18 accompaniment that we've had for so many years
19 has then been stripped back.

20 So, we've gone from a situation of
21 being vulnerable to being even more vulnerable.
22 And today what we're seeing is all these years of

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1 progress are being rolled back consistently, to
2 the point that what we see is that the Nicaraguan
3 State today, under the current regime, is
4 interested in seeing the indigenous peoples
5 simply disappear and have no rights.

6 And what they're particularly
7 interested is control over land and natural
8 resources. So, in addition to total control of
9 the population, the whole point of that in these
10 areas is to get the natural resources without the
11 free -- prior free and informed consent required
12 by international instruments.

13 And also, they have -- so important
14 for the indigenous peoples has been conservation,
15 and so, ironically, the government has taken some
16 of the monies from a green fund for example,
17 which was set up in order to protect resources
18 and the environment, and the government, in the
19 name of doing so, has taken the resources for
20 itself.

21 So, they've invaded our lands in order
22 to get the resources, but also have negated,

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1 completely, the right to indigenous
2 self-determination. There's 23 indigenous
3 territories in all of Nicaragua, each has its own
4 governing structure, and all 23 have been taken
5 over by the dictatorship.

6 And I would just like to close by
7 saying, the lack of effective protection for our
8 collective rights has resulted in an
9 unprecedented humanitarian crisis, people have
10 been driven off their lands, many have had to
11 leave the country -- many going to the, Costa
12 Rica, and even some here to the United States,
13 simply to safeguard their lives and integrity.

14 MR. VAN PATTEN: Thank you, Ms.
15 Alfred. One more question for you. Could you
16 please elaborate more on the circumstances that
17 led to the various NGOs you have worked with
18 having their legal status canceled, and to the
19 persecution of their directors, activists, and
20 family members? And are you aware of the
21 cancellation of the legal status of any other
22 NGOs that have operated in Nicaragua? Thank you.

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1 MS. ALFRED: Can you repeat the
2 question, please?

3 MS. ALFRED (Speaking for self): I'm
4 sorry.

5 MR. VAN PATTEN: No, worries. Happy
6 to repeat.

7 THE TRANSLATOR: If you could just
8 speak a little louder.

9 MR. VAN PATTEN: Sure, yes. Could you
10 please elaborate more on the circumstances that
11 led to the various NGOs that you have worked with
12 having their legal status canceled, and to the
13 persecution of their directors, activists, and
14 family members? And are you aware of the
15 cancellation of the legal status of any other
16 NGOs that have operated in Nicaragua?

17 MS. ALFRED (Speaking for self): Thank
18 you for the question. I'm sorry, since I'm
19 traveled from Geneva I have a lot different
20 hours.

21 (Foreign language spoken.)

22 MS. ALFRED: So yeah, on the question

1 of the cancellation of NGOs -- and there's been
2 more than 5,000 of them canceled under some law
3 supposedly on foreign funding or foreign
4 involvement in Nicaragua -- well, in the
5 indigenous areas of the Caribbean coast, the NGOs
6 have been made up of indigenous leaders and
7 indigenous community members. And this is so
8 important because of the very distinct nature and
9 particularities of our communities in the
10 Caribbean coast. Other -- many other NGOs have
11 also been impacted.

12 Well, in that sense the attacks on
13 indigenous leaders really go beyond the
14 communities in the sense that indigenous leaders
15 are recognized as natural leaders, unlike, say,
16 in other -- the rest of the country. They're not
17 necessarily political leaders.

18 For example, a person -- a woman who
19 offers traditional medicine in the community, she
20 is a fundamental part of the community, a
21 fundamental part of the social fabric of the
22 community. So, when she is attacked it's an

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1 attack on the entire community. Same with those
2 who look out for the preservation of the forests,
3 they are a fundamental part of the social fabric.
4 So, when the government acts against them that
5 ends up tearing up the social fabric, and that's
6 why we talked about genocide.

7 For example, the political -- the
8 organization, Yatama, was forced to convert to
9 the -- take the form of a traditional political
10 party. That was what the decision in 2005 was
11 all about, it was an initial attempt to gain
12 access to spaces where we, the indigenous
13 communities, had generally been excluded from or
14 marginalized from or completely kept out of.

15 Yatama, this organization, has now
16 been around for 40 years, but right now the top
17 leadership has been disappeared, subject to
18 forced disappearance. And this sends a message
19 to anyone who wants to put up resistance to the
20 dominant ways, that they will be eliminated.

21 It's my case, too, I'm the first
22 indigenous woman from Nicaragua to hold a UN

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1 mandate, and they've gone after me as well. So,
2 this is a message saying, even if you have that
3 kind of connection internationally, that's not
4 going to protect you either.

5 MS. SAVAGE: Thank you. This next
6 question is for Mr. Mairena Sequeira. Could you
7 please explain your work with the Movimiento
8 Campesino de Nicaragua and the challenges you
9 faced from the Nicaraguan government in pursuing
10 the organization's mission?

11 THE TRANSLATOR: Could you please
12 repeat the question? I'm so sorry.

13 MS. SAVAGE: Sure. This question is
14 for Mr. Mairena Sequeira. Could you please
15 explain your work with Movimiento Campesino de
16 Nicaragua and the challenges you faced from the
17 Nicaraguan government in pursuing the
18 organization's mission?

19 MR. MAIRENA: The Movimiento Campesino
20 was established in 2013 in the wake of a law that
21 was to expropriate vast expanses of Nicaragua, in
22 order to build the Interoceanic Canal project.

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1 And this was to defend our human rights, our
2 property rights, our natural resources, which
3 were threatened by this concession that was given
4 over to a Chinese entrepreneur, Wang Xing, who we
5 never met.

6 And when we say that they were selling
7 out our sovereignty, that's because the
8 government adopted a special law that would give
9 this concession autonomy over our lands, our
10 natural resources, taking away our ability as
11 peasant farmers, as indigenous, to make use of
12 our lands as we saw fit.

13 And so we began a legal process in
14 Nicaragua, to see how we could have that law
15 repealed. And all that we got in return was
16 repression, persecution, imprisonment, torture,
17 and now banished to exile.

18 MS. SAVAGE: Thank you. And this
19 question is also for Mr. Mairena, is your
20 organization, Movimiento Campesino de Nicaragua,
21 able to operate in Nicaragua today?

22 MR. MAIRENA: It's almost impossible,

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1 for the repression has been so brutal that most
2 of the local leaders have had to leave the
3 country. We're now spread out across -- in
4 different parts of the world, and we've had to
5 leave the country in order to save our lives.

6 And so, while human rights defense
7 organizations have been able to document many
8 violations, including the 365 persons who've been
9 assassinated, in the territories and regions
10 where we operate it's not been possible to
11 document all that has happened, because of the
12 brutal repression -- including, the killings of
13 many peasant farmers.

14 So, we have tried several times, but
15 the police and paramilitary forces have not
16 allowed the human rights organizations to come
17 into our territories to do this documentation.
18 So, we don't really have any statistics. The
19 modality that this repression took on after 2018
20 was that producers and local leaders would be
21 assassinated, would show up assassinated in these
22 various regions.

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1 MS. SILVERSMITH: Mr. Mairena, could
2 you please describe how, in your opinion, the
3 government of Nicaragua has engaged in
4 unreasonable acts, policies and practices towards
5 its citizens, with respect to their human rights
6 and labor rights?

7 MR. MAIRENA: They violated our rights
8 through state repression, particularly with the
9 -- through the use of the police and paramilitary
10 groups -- and these paramilitary groups, sadly,
11 are now being legalized in the constitutional
12 reform. And they -- and this effort includes
13 taking, for example, the Sandinista Youth
14 movement, giving them weapons and having them go
15 out and attack and assassinate people. And this
16 is not only against peasant farmers, but against
17 others who are standing up for their rights as
18 well.

19 And the fact that the group in power
20 maintains economic control -- well, part of the
21 economic control is that they set the prices on
22 the products that peasant farmers and rural

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1 producers produce. And so, this is yet another
2 dimension of exploitation -- those in power
3 become illicitly enriched by imposing such
4 controls, and, of course, to the detriment of
5 those who receive less for their output.

6 CHAIR GRIMBALL: Thank you. That
7 concludes our questioning to the witnesses, and
8 that concludes today's hearing. We are very
9 appreciative of all your time, those in the
10 audience, our witnesses, for coming here today
11 and providing the testimony and support that some
12 of your organizations have provided with respect
13 to translators and such. We do appreciate it, I
14 appreciate the government representatives that
15 are here today, USTR staff that have assisted
16 with bringing this hearing to bear.

17 Once again as a reminder, January 23
18 is that final date to provide responses,
19 supplementary responses, to the testimony
20 provided here today. That website will open
21 tomorrow at 12:01 a.m., the same website that you
22 used initially. And with that, please do have a

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1 great evening, stay warm out there. Thank you.

2 (Whereupon, the above-entitled matter
3 went off the record at 3:53 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Section 301 Investigation

Before: U.S. Trade Representative

Date: January 16, 2025

Place: Washington, D.C.

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



Court Reporter

NEAL R. GROSS

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