

Weekly Report - 9 November 2004

NICARAGUA: Sandinistas see poll results as 'a new revolution'

An exultant Daniel Ortega described the outcome of the 7 November municipal elections as 'a new revolution without weapons or blood which reminds us of the victory of 19 July 1979 - a new 19 July in which we have not needed guns to combat corruption and tyranny'. By any reckoning, his Frente Sandinista de Liberación Nacional (FSLN) swept the polls.

Most of the attention was focused on the mayoral contest in Managua, where FSLN candidate Dionisio Marengo beat the Liberal Pedro Joaquín Chamorro 46:36 (according to the latest figures available early on 9 November). But the Sandinistas achieved much more than that: they won at least 90 of the 152 mayoral contests (with 11 still awaiting a final count), including 15 of the 17 department capitals. The FSLN thus has 38 more mayoralties than before. Of interest to anyone computing countrywide allegiances, the FSLN attracted 44.7% of the vote.

The Partido Liberal Constitucionalista (PLC) has seen its municipal presence shrink to 41 mayoralties (53 fewer than before) and only one departmental capital, with 35.4% of the vote countrywide. President Enrique Bolaños's Alianza por la República (APRE), making its electoral debut, took five mayoralties, including one department capital, and attracted 11% of the national vote.

Of the remaining mayoralties, four went to the Partido Resistencia Nicaragüense (PRN, the former Contras) which attracted 3% of the vote, and one, in the northern Atlantic department, to the indigenous Pamuc.

An interesting sideline was provided by a Cid-Gallup poll released just before the elections. It showed support for the Sandinistas at 47% (not far from the mark) - and within the pro-Sandinista camp showed Ortega commanding the support of 47%, as against 38% backing the outgoing mayor of Managua, Herty Lewites. The poll shows that support for Ortega is greater among the Sandinistas living outside Managua.

As for President Bolaños, he has seen his support within his original party, the PLC, shrink from 58% in late 2002 to only 18% now (most of whom seem to have followed him into APRE), while imprisoned former President Arnoldo Alemán has seen his backing rise from 20% to 34% in the same period.

Weekly Report - 16 November 2004

NICARAGUA : Assembly now targets presidential powers

President Enrique Bolaños has been given a stay of sentence: following Sandinista leader Daniel Ortega's statement that he would not support removing Bolaños from office, his bloc in the assembly has decided that there is no time left in the current sitting to deal with the comptroller-generals' request for the President's dismissal [WR-04-40]. What the Sandinistas have done, together with the Partido Liberal Constitucionalista (PLC), is submit a draft constitutional amendment which would place checks on the sweeping powers of the Nicaraguan presidency.

The assembly's current sitting ends on 15 December. With the constitutional amendment as their new top priority, the Sandinistas say there is not even time to discuss the formation of the special commission which should decide on the acceptability of the comptroller-general's request. Because there is a time limit on this, the delay may actually mean dropping the matter altogether.

According to the pro-Bolaños camp, the proposed constitutional amendment is no more than Ortega's scheme to introduce a parliamentary democracy in disguise. It is not.

The amendment, which affects three articles of the constitution, introduces checks on the powers of the executive that are in place in several Latin American governments, and some of them in the US as well. These are the need to obtain legislative ratification of top appointments (ministers, ambassadors, banking superintendent, chief prosecutor, human-rights procurator) which are now the exclusive gift of the President.

The amendment would also give the assembly the power to remove a minister from office when in a formal interpellation it finds him incapable of continuing to hold it. The one area in which the proposal departs markedly from common practice is in the curtailment of the presidential veto. It establishes that the assembly may override a veto with a simple majority vote, rather than the customary two-thirds.

This is a most topical matter: last week Bolaños used his veto on three pieces of legislation. He partially vetoed the law on the judicial career, targeting provisions introduced by the assembly that perpetuate partisan control of appointments to the bench, and vetoed the whole of a law on transfers of funds to the municipalities (because it included an appropriation that had not been budgeted) and a law granting pardons (because its beneficiaries included people linked to the drugs trade and to the intimidation of farmers in the interior).

The government's position is that the amendment would turn the assembly into a 'labour tribunal' constantly engaged in the process of accusing and defending ministers, and would reduce the presidency to a 'decorative' post.

The draft amendment was endorsed by 60 legislators drawn from the Sandinista and PLC blocs. This is four more than is needed to ensure its approval. However, constitutional amendments must be approved in two successive sittings of the legislature, so Bolaños may continue to enjoy his current powers until sometime next year.

## Weekly Report - 23 November 2004

### NICARAGUA: US puts pressure on PLC as new missile row erupts

As a top US official turned up in Managua to micromanage local politics, the opposition in congress opened a new front in its confrontation with President Enrique Bolaños with a law that would prevent him from fulfilling a promise he had made to the US: the total destruction of his missile arsenal. Bolaños struck back issuing a decree that preempted promulgation of the new law.

Dan Fisk, the US assistant undersecretary of state for Western Hemisphere affairs, went to Managua in mid November to make another attempt to break up the entente between the Partido Liberal Constitucionalista (PLC) and the Sandinistas (FSLN). He summoned PLC leaders to the US embassy to express concern about the constitutional reforms currently being pursued by the united PLC-FSLN front [WR-04-45] and to urge them to abandon their insistence on getting former President Arnoldo Alemán released. He said that continuing along this path would only deliver Nicaragua into the hands of the Sandinistas.

According to one participant, Fisk said that if the PLC continued to raise the banner of Alemán's release, the US would abandon Nicaragua to its own devices. On 18 November, three days after the meeting with Fisk, the PLC added its votes in the national assembly to those of the Sandinistas and secured passage of

a law which subjects to legislative approval any initiative of the executive that involves purchasing, selling or destroying weapons. This has an immediate bearing on Bolaños's recent public pledge to destroy all remaining SAMs in Nicaragua's arsenal over the next year-and-a-half. This pledge went far beyond earlier commitments, ignoring the recommendation of the military that at least 10% of the missiles should be retained, and sought no compensation from the US.

The presidency instantly announced that Bolaños would veto the law, on the grounds that it curtailed his powers as commander-in-chief. A day later, Bolaños went a step further. He issued a decree ordering the destruction of another batch of 334 SAM-7 missiles in the second half of November, 'in fulfilment of the schedule submitted [by] the defence ministry and the army'. Fabiola Masís, legal adviser to the presidency, says Bolaños is acting within his rights, since the assembly authorised him last April to proceed with the destruction of the missiles and the new law has not yet come into effect. It will come into effect when Bolaños promulgates it.

Sandinistas and Liberals disagree over the extent of Bolaños's powers in this case. José Figueroa, the Sandinista vice-president of the assembly's defence committee, maintains that the April resolution was meant to authorise the destruction of 666 missiles 'and not a single one more'. PLC bloc leader Enrique Quiñónez notes that the resolution did not mention any specific number of missiles; indeed, he wondered aloud why Bolaños did not go ahead and order the destruction of the full remnant. General Omar Halleslevens, army chief of staff (and probably the next commander) chipped in saying that a 20% remnant would suffice for Nicaragua's defence needs - which is twice as much as his commander, General Javier Carrión, had estimated.

#### [Weekly Report - 30 November 2004](#)

#### [NICARAGUA: FSLN & PLC 'in new power-sharing pact'](#)

A new, far-reaching pact has been agreed between the Sandinistas and the Partido Liberal Constitucionalista (PLC), which would involve alternating in power - according to the newspaper *La Prensa*, which cites unnamed 'Liberal sources'. The claim is verifiable in the very short run: it is said to include a timetable, beginning with former President Arnoldo Alemán's release from prison in early December.

The two parties have pushed through the assembly constitutional reforms and new laws that sharply curtail the previously sweeping powers of the presidency, removing from its control the resolution of property claims that date back to the Sandinistas' time in power, and authority over the state enterprises. The constitutional reforms will not come into effect immediately: they must be ratified by the next legislature, in 2005. So far, Bolaños has only been able to preempt one of the curbs, by ordering the destruction of another batch of SAM missiles before a new law depriving him of the power to do so came into effect.

#### [Checkable details](#)

According to *La Prensa*, the new pact goes much further than the changes already seen. It envisages the alternation in power of the FSLN and the PLC, starting with whoever wins the next presidential elections, in 2006. This is expected to be a contest between Sandinista leader, and former President, Daniel Ortega, and a rehabilitated Alemán.

The new pact purportedly foresees a provisional acquittal of Alemán by a court of appeals in early December, after which he would be released from prison into house arrest, and a later definitive acquittal, which would entail the restitution of his political rights.

Under each alternating presidency, the party out of power would be guaranteed a quota of high-level positions in government (the share-out of other key positions, under the package of legislation recently passed, would be conducted through the national assembly).

Also envisaged, according to the newspaper:

- The governing board of the national assembly will have three Sandinistas, three Liberals, and one representative of the pro-Bolaños Azul y Blanco faction. The presidency will go to the Sandinista René Núñez.
- The PLC will be given the new superintendency of state enterprises, but the top post in three of the four state firms will go to the Sandinistas.
- The new property institute will be headed by a Sandinista appointee, with a PLC deputy.

All of this provides a useful checklist to determine how much truth there is in the allegation that a new pact has been agreed. An interesting detail of all these developments is that the curtailment of presidential powers will apply to future FSLN and PLC presidents - while, however much they may try to rig the electoral system, they may not be able to ensure that both retain their current dominant positions in the national assembly.

Weekly Report - 7 December 2004

NICARAGUA: Is Bolaños about to resign, or fight?

President Enrique Bolaños is expected to take a dramatic stand against the Liberal-Sandinista compact which has pushed through the legislative assembly a package of laws and constitutional amendments that greatly curtail the powers of the presidency [WR-04-45]. Last week he returned from a brief holiday in the US to find the country awash with rumours that he was about to resign.

Though Bolaños did call his son Jorge from the US to dismiss the rumours, he has yet to deny them unequivocally. All he has done is announce that he will 'soon' deliver an address to the nation on the measures taken by the legislature.

The person who has been insisting most loudly in public that Bolaños should state unequivocally that he will serve out the rest of his term is his Vice-President, José Rizo. 'It would be favourable and opportune for President Bolaños to speak publicly and state categorically, "Gentlemen, I received a mandate and I will fulfil what the Nicaraguan people wished for five years". The President's silence generates unease, discomfort and anxiety among the Nicaraguan people, and for that reason it would be good for him to clarify matters.'

There is a subtext to this, beyond the obvious fact that Rizo would take over if Bolaños were to resign. Rizo is a close personal friend of the imprisoned former President Arnaldo Alemán, the man at the heart of the PLC's campaign against Bolaños. Moreover, he has not been on speaking terms with the President since June (he complains that he only sees Bolaños at cabinet meetings).

Targeting the media

Reactions from elsewhere in the political arena have been uncharacteristically low key. In part this is because the anti-Bolaños legislators have been busy preparing more legislation. Their most recent scheme, revealed on 30 November, is to amend the article in the constitution that exempts the media from taxation. This, says Sandinista assemblyman René Núñez, is simply a response to the country's financial straits.

The media see it differently. Hugo Hollman, general manager of La Prensa, doyen of the print media, says that this is no more than 'an attempt to silence the media that oppose the constitutional reforms and other [recent] laws'.

While many of the reforms passed by the assembly do no more than bring Nicaragua into line with what is common practice in many Latin American countries, one of them - the lowering of the voting threshold to overturn a presidential veto - goes much further than that, tilting the balance of power heavily in favour of the legislature.

Nicaragua's current constitution was promulgated in January 1987, but since then it has suffered many changes. Almost 100 articles were amended in 1995, and five years later, in 2000, the Liberal-Sandinista pact introduced its first batch of additional amendments, designed to secure for them a share-out of positions in the public administration. This year's batch moves several steps further along the same path.

Weekly Report - 14 December 2004

NICARAGUA: Bolaños comes up with very long shots

President Enrique Bolaños did not resign. Instead he denounced the constitutional reforms approved by the national assembly as the prelude to a coup d'etat, then announced that he would be submitting three constitutional reform proposals of his own and would fight the opposition's reforms in 'all the tribunals and courts of the world'.

'If the [opposition's] reforms are enacted,' he said before a class of graduating army-cadets on 9 December, 'there would no longer be a democracy, which entails hierarchical equality between the powers; it would be a dictatorship - one power set above the others.'

The reforms sharply cut back the powers of the presidency, in most cases by introducing congressional checks and balances common to many Latin American countries. Only in one case do they go beyond that: when they give the assembly the power to overturn a presidential veto by simple majority, instead of the currently stipulated two-thirds.

The very next day Bolaños announced three constitutional reform proposals he would be submitting. The first, he said, would ban presidential reelection outright. The second would ensure (he did not say how) that elected legislators would respond to the interests of their constituents, not those of the party bosses (caudillos). The third would establish that constitutional amendments should be ratified by the electorate in a referendum.

Bolaños also announced that members of his cabinet would be seeking from the Managua appeals court an injunction against the reforms approved by the assembly. For his own part, he said that if necessary he would appeal to the democratic charter of the OAS or 'the mechanisms of the UN' designed for situations where there is 'danger of rupture of the constitutional order'.

Not much leeway

The problem he faces is that his various moves have little chance of success. Liberals and Sandinistas jointly control 79 of the 91 seats in the assembly, which means that he lacks the votes to get his reforms approved.

The appeals court is unlikely to take action against an act of the assembly, and even if it did the matter would go up to the supreme court - which Bolaños has often portrayed as dominated by the two opposition parties. Precedent suggests that he would have a hard time persuading the OAS to invoke the democratic charter and intervene, and the 'UN mechanisms' he cited are non-existent.

This boils down his chances to two: that US pressure will succeed in persuading the Liberals to break their alliance with the Sandinistas [WR-04-47], or that he might be able to stage a coup - an option which would require willingness on the part of the army and assurances of ex post facto endorsement from the US and Latin American neighbours. Of the two, the former is the only one which sounds even remotely plausible.

The only thing Bolaños has in his favour is a built-in delay in the enactment of the constitutional reforms. These require ratification by a second session of the legislature. No date has yet been set, but few expect the vote to take place before late January.

Weekly Report -11 January 2005

NICARAGUA: Regional court throws lifeline to Bolaños

Children throughout Latin America get their presents on 6 January, when the Three Kings of Orient pass in the night. This year the Kings had an extra delivery for Nicaragua's President Enrique Bolaños: a ruling by the Central American Court of Justice (CCJ) ordering the national assembly to refrain from ratifying recently approved constitutional reforms that curtail the president's powers [WR-04-49]. The opposition's reaction might just provide Bolaños with the excuse to invoke the Democratic Charter of the OAS and assert his authority over the assembly with international support.

The CCJ has not ruled on the substance of Bolaños's suit: its order is ostensibly precautionary. The Sandinistas and the Partido Liberal Constitucionalista (PLC) have openly rejected the court's ruling, on the grounds that Bolaños had not first exhausted all domestic remedies. This objection stumbles on two difficulties. The first is that the treaties establishing the jurisdiction of the CCJ make no mention of exhausting domestic channels first (though this might have applied had Bolaños sought an injunction, which he didn't). The second is that, in any case, the Nicaraguan supreme court - dominated by the FSLN and PLC - has been deliberately sitting on a suit filed by Bolaños in mid December, laying itself open to a charge of dereliction, given the urgency of the matter.

The CCJ ruling also ordered the assembly to hold in abeyance the proceedings initiated by the request from the office of the comptrollers-general that Bolaños be removed from office [WR-04-42].

One detail, publicly emphasised by Bolaños when he announced the CCJ's ruling, is that as recently as 2003 the national assembly recognised that the CCJ's decisions are unavoidably binding (*de ineludible cumplimiento*). At that time, as now, the assembly was dominated by the FSLN-PLC entente. The opposition could of course argue its objections before the court; after all, the assembly has only been ordered to suspend ratification of the reforms, not reverse them.

This would entail a risk: that when the CCJ got around to the substance of the dispute, it would agree with Bolaños's argument that the assembly had overstepped its powers, by adopting the procedure appropriate to constitutional amendments to what amounts to a set of substantial constitutional reforms intended to redefine the balance of power between the branches of government. The latter, the government feels, requires the electorate's broad and explicit consent.

By choosing to ignore the CCJ order - as former presidents Arnoldo Alemán and Daniel Ortega agreed to do at a face-to-face meeting on 8 January - the opposition has placed itself in violation of a treaty their own parties had acknowledged as binding. Foreign minister Norman Caldera has served notice that failing to abide by the CCJ ruling would open the door to the invocation of the OAS Democratic Charter, which envisages sanctions for 'any alteration or unconstitutional breach of the democratic order'. One political analyst, Emilio Alvarez Montalván, has hinted at what might follow: intervention by the army 'which needs an institutional criterion to say that the reforms are not adequate.' With the CCJ ruling, he suggests, the army 'can turn on the amber light'. The army has recently sounded oblique warnings about the FSLN-PLC pact.

Weekly Report -18 January 2005

NICARAGUA: Apparent victory turns into defeat for Bolaños

For a very short while last week it looked as if resorting to international pressure had worked in favour of President Enrique Bolaños. A warning from the permanent council of the OAS was followed almost immediately by an agreement between Bolaños and Sandinista leader Daniel Ortega to subject to a consensus the controversial constitutional reforms curtailing presidential powers [WR-04-45]. Former president Arnoldo Alemán, currently in jail, later endorsed the deal - and the very next day the opposition reneged on it and ratified the reforms in the assembly.

Bolaños, through ambassador Carmen Marina Gutiérrez, had asked the permanent council of the OAS to maintain 'a state of alert for democracy' in Nicaragua. This was not quite the invocation of the OAS Democratic Charter which Bolaños had announced: the phrasing reflected the wishes of leading OAS members that the charter should not be brought into play, at least not yet.

The deal with Ortega was solemnised on 12 January with the presence of two 'guarantors' Cardinal Miguel Obando y Bravo, the archbishop of Managua, and Jorge Chedieck, resident UN coordinator. The archbishop also sent an envoy, Monsignor Eddy Montenegro, to persuade Alemán to endorse it, which he did that very same day.

The agreement was mainly a commitment by all parties to initiate a 'national dialogue' to be based on two opposition pledges: one, explicit support for Bolaños to serve out the rest of his term; the other, making the application of the constitutional reforms approved last year subject to a consensus between the executive and the legislature. This, it is stated, was to be stipulated in a clause 'of constitutional status' attached to the reforms.

Celebrations were cut short the next day, when the Sandinista-Liberal entente in the assembly went ahead and ratified the reforms - without the conditioning clause.

When the government protested that this was a blatant breach of the agreement, the president of the assembly, René Núñez (FSLN), promised to make 'some stylistic amendments' so that the application of one particular reform - the assembly's power to remove a minister via a vote of censure - would remain subject to reaching a consensus with the executive. He made no mention of the most sweeping reform, which allows the assembly to overturn presidential vetoes by simple majority.

It soon became apparent that Bolaños's negotiator, chief of staff Ernesto Leal, had been ambushed: he had, after all, agreed to a text subjecting the application of the reforms, not their ratification, to a consensus.

In the ensuing confusion, all parties to the dispute -Bolaños, Ortega and both FSLN and PLC legislators - held a meeting on 14 January at which they announced that 'all doubts have been clarified' and that, consequently, they were 'willing' to launch on 18 January the 'national dialogue'.

The government apparently settled for accepting the ratification of reforms if five aspects are made subject to a future consensus. It also accepted that Alemán should be included in the 'national dialogue'.

Weekly Report -25 January 2005

NICARAGUA: Opposition threatens to abort 'national dialogue'

The three-party 'national dialogue', between President Enrique Bolaños, imprisoned former president Miguel Alemán and former president Daniel Ortega, came up with four agreements on 19 January - only to risk collapse as the opposition parties in the country's assembly announced that they would ignore the ground rules and proceed with key appointments that should be agreed upon by the executive.

Only two of the four agreements are substantial. The first represents a significant climbdown by Bolaños: he has pledged to promulgate the constitutional reforms which erode presidential powers and which he had so strenuously opposed [WR-04-49]. The second is an acceptance by the opposition of the vetoes issued by Bolaños against two laws and a commitment to rewrite them to try to accommodate his objections. The other three are agreements by the opposition to discuss with the executive the budget for this year (see page 15) and the legislation reforming the social security institute, INS.

The 'dialogue' itself represents another climbdown by Bolaños in that he formally acknowledges a convicted felon, Alemán, as a party to the negotiations. On balance, the opposition has so far gained the most, making only temporary concessions in exchange for gaining legitimacy for its constitutional coup.

This makes it hard to understand why, the day after these first agreements were announced, that the national assembly should have moved to upset the applecart yet again. It did so by announcing that it would go ahead and appoint replacements for six members of the comptroller-general's office and two of the supreme electoral council, whose terms of office run out in February. The accepted ground rules for the 'dialogue' established that these appointments should be consensual.

The government has reported this breach to the UN as the sponsor of the 'dialogue' and Cardinal Miguel Obando y Bravo as witness and guarantor of the talks.

- A miracle for Lewites? Sandinista leader Tomás Borge proclaimed last week that 'only a miracle' would gain the Sandinista presidential nomination for former Managua mayor Herty Lewites. This came after the FSLN's ethics committee had barred Lewites's candidacy on the grounds that back in 1996 he had broken away from the party to run for the mayoralty on a ticket of the civic association Sol. 'I believe in miracles,' retorted the legendary ex-Sandinista priest and poet Ernesto Cardenal. 'Lewites is the only one who can put Sandinismo back in power [...] I am among those who support him and would, naturally, return to the FSLN if he were its presidential candidate.'

Opinion polls show up to 80% of respondents convinced that Lewites would make a winning candidate. Despite the ruling by the ethics committee, Lewites says he remains determined to compete with Daniel Ortega for the nomination in internal elections. Ortega, a loser in the last three presidential elections, has announced that he intends to try again in 2006.

Weekly Report - 1 February 2005

NICARAGUA: Missile sale suspected of being a 'double sting'

Members of the Nicaraguan military are convinced that the US staged the discovery of a clandestine missile-vending operation, not so much to add strength to its demand that the entire Nicaraguan stock of SAMs be destroyed but to build up a case against the Sandinistas, as part of Washington's efforts to break up the Sandinista-Liberal power-sharing entente.

On 10 January, acting on a lead apparently provided by the DEA, the Nicaraguan police sprung a 'sting' operation at an air-conditioning shop only a few minutes' walk from their Managua headquarters. A covert agent was shown a sample Soviet-made SA-7, said to be one of a dozen available for purchase.

Arrests were made, and the missile was sent off to the army to verify its provenance. Its number did not match any on the army's inventory (a copy of which the US has possessed since before September 2001); it was old and had clearly not been properly maintained. The US was informed.

On 27 January two things happened in Washington. First, the Washington Times published a story based on briefings by government sources. It said, 'US officials think the missiles are being provided by elements of the Nicaraguan military [...] One official said intelligence reports suggest Nicaraguan army elements are keeping a secret stash of SA-7s not inventoried by international inspectors [...] "This shows that such missiles can be bought on the open market, and it highlights the need for strong international cooperation to get rid of them," a second official said [...]. "We had always suspected they had a secret stash not in the inventory," the official said.'

Secondly, US State Department spokesman Richard Boucher confirmed at a press briefing that this was indeed his government's view, when he said, 'We commend Nicaraguan authorities for successfully recovering one of their Manpads [SAMs], in this case a Russian-made SA-7, during a criminal investigation that culminated this month. Our Drug Enforcement Administration assisted them with that investigation. 'There are allegations or suspicions that there might be some stockpile that's held by the military or other parties. We have asked the government of Nicaragua to look into that and to investigate and find out whether indeed there might be some of these that have gone missing or might be in the wrong hands.'

The Washington Times story included a response to the admitted fact that the missile was not on the official Nicaraguan inventory: 'The non-match is further evidence of a secret stash, an administration official said.' The political context, as conveyed to the Times: 'Some Bush officials believe [President Enrique] Bolaños is being double-crossed by officers loyal to the opposition Sandinista National Liberation Front, which opposes destroying the weapons. The Sandinistas are re-emerging as a powerful force in Nicaragua after losing the elections in 1990. The left-wing Sandinistas have loyal officers well-placed in the army. The Bush administration official said intelligence agencies have identified one particular officer as being linked to a secret stash of SA-7s and the [...] aborted sale. [...] In recent months, the Sandinista party has gained more power within government, despite the PLC having a majority of seats in the legislature.'

Weekly Report - 8 February 2005

NICARAGUA: 'Dialogue' teeters on the brink

One of the first agreements reached under the 'national dialogue' [WR-05-04] may collapse on 15 February, when the legislative majority formed by the Liberals and Sandinistas plans to go ahead with the scheduled appointment of judges, electoral magistrates and comptrollers-general, regardless of whether 'consensus' has been reached with the executive. Presidential spokesman Lindolfo Monjarrez has announced that this will be considered a breach of promise, tantamount to walking out of the 'dialogue'.

The agreement in question was that these appointments would be the fruit of a 'consensus' between the executive and legislative powers. The two big parties note that the constitution empowers the national assembly to make these appointments. Actually, it empowers the assembly to choose from candidates (three per post; a terna) put forward by the executive - but President Enrique Bolaños has chosen not to present any ternas.

The rationale for this is not entirely clear. According to Monjarrez what should be done is that both sides 'should sit down together and agree on which are the best qualified people for these posts', not just 'continue with the system of partisan share-out [between the Sandinistas and the PLC]'. What he seems to be suggesting is that there should be a three-way share-out instead. Bolaños has not helped the quest for consensus by suggesting that there might be something to an unsupported US claim that a rogue 'Sandinista' army officer has secretly stashed missiles for the purpose of black-market trafficking.

Weekly Report - 22 February 2005

NICARAGUA-US: Assembly overrides veto: missiles survive

If President Enrique Bolaños harboured any hopes of getting the national assembly to accept his veto of the arms law that wrested from him the final say on the acquisition and destruction of weapons, his flip-flop over the January black-market missile sting [WR-05-05] erased them completely. If the sting, as many suspect, was set up to ensure the destruction of Nicaragua's missiles, it backfired badly.

Bolaños at first joined those who strongly refuted the US suggestion that rogue military elements might be covertly trading in missiles. He insisted that the army's stocks were 'safely kept under seven locks' and that inventories were regularly checked. Later, however, he changed his stance, suggesting that the military in control of the missiles could be tempted by monetary reward to sell them. Unsurprisingly, this provoked indignation among the military and the opposition in congress.

When Bolaños followed up by vetoing the arms law, the assembly responded, on 16 February, by overriding the veto with an overwhelming majority of well over two-thirds, far more than the simple majority needed under the reform recently approved by the legislature.

Weekly Report - 1 March 2005

NICARAGUA: Missiles: promise to 'persuade' legislators

The US government last week sent down to Managua one of its mid-ranking officials to put additional pressure on the government to destroy all of its remaining 1,100 surface-to-air missiles (SAMs). What it

got was a government promise to try to persuade the national assembly to authorise destruction of all but 20% of the missiles.

The move was accompanied by the usual round of leaks and slanted briefings. Somebody told the Wall Street Journal about a State Department cable which threatened to declare the Nicaraguan military a criminal organisation. A 'diplomatic source' at the US embassy in Managua told journalists that failing to destroy the missiles could have adverse economic consequences, which were not spelt out.

The envoy who headed the US delegation, Rose Likins (acting Assistant Secretary of State for political and military affairs), added her bit on the record, in a statement released by the embassy in Managua in which she said, 'Our worry is that these kinds of uncontrolled arms represent a threat to the region and global aviation. Missiles that aren't officially supervised and controlled could easily fall into the hands of criminal or terrorist organisations.'

This can only allude to the missiles which, starting from the recent 'sting' operation [WR-05-05], the US has been hinting are still out there, undetected. Indeed, State Department spokesman Richard Boucher made the link explicit when, on 22 February, he expressed US satisfaction with 'some of the efforts the Nicaraguan Government made to destroy missiles, to the sting operation that helped identify that there might be others out there'.

To underscore Washington's point, in her statement Likins described SAMs as the 'weapons of choice for terrorists'. The record shows that, set against the large number of such missiles of both Soviet and US origin that have been left floating around the globe, terrorists worldwide have barely used them at all.

After a meeting on 23 February between Likins, defence minister Adán Guerra and new army commander Omar Halleslevens, Guerra told the press: 'We have assumed the commitment to persuade the deputies of the national assembly that Nicaragua should keep only 20% of the missiles, as established in the arms reduction plan we submitted to the US [in 2004].' It is not clear if that is 20% of the original 2,000 missiles, or of the remaining 1,100.

The only immediate political response came from the first vice-president of the assembly, Wilfredo Navarro of the Partido Liberal Constitucionalista (PLC). He said that if the executive and the army had agreed on retaining 20% of the missiles, his party would go along with that. The PLC, however, is not the decisive force.

Under the new arms law passed by the assembly, the destruction (or acquisition) of armaments must be approved by a qualified majority of the 91-seat assembly. The Sandinistas, with 38 seats, hold veto power - and so far they have been opposed to the destruction of the remaining missiles.

The State Department produced a slightly different version of the outcome on 25 February. It cited Likins as having said that 'Nicaragua has reassured the United States that it will honor a commitment to destroy its own stock of shoulder-fired anti-aircraft missiles'.

Weekly Report - 5 April 2005

NICARAGUA: 'Regional' court backs Bolaños against assembly

The conflict of powers in Nicaragua has taken a new, confusing twist with a ruling by the Central American Court of Justice (CCJ) declaring null and void the constitutional reforms curtailing the president's powers which the national assembly approved in second reading on 4 January [WR-05-02].

President Enrique Bolaños says he will enforce the ruling (but has not explained how); the Nicaraguan supreme court has issued a ruling ratifying the validity of the reforms, and the assembly says it will abide by the latter.

The Managua-based CCJ's main argument is that the reforms could only have been made by a duly-elected constituent assembly, not by the legislature (as distinct from mere amendments, which the legislature can introduce by approving in two successive sessions). Instead of leaving matters there, however, the CCJ addresses the substance of the reforms, concluding that they weaken the independence of the executive and skew the balance of powers.

Actually, the only feature which departs from practice elsewhere in the hemisphere is the one which allows the assembly to overturn a presidential veto with a simple majority, rather than one of two-thirds. The CCJ's subsidiary arguments might seem otiose, since the main one already declares the reforms 'juridically inapplicable'. However, there is a strong suspicion that the CCJ ruling is part of a bid by Bolaños to place the opposition - the Liberal-Sandinista entente - in breach of the OAS Democratic Charter, a development expected to enjoy the support of the US.

The CCJ ruling pointedly notes that, as stipulated by Article 39 of its statutes, ratified by all members, its decision must be obeyed as if emanating from a Nicaraguan court. As noted by the leaders of the Nicaraguan national assembly, this fails to take into consideration a protocol approved on 15 December by the presidents of Honduras, El Salvador, Panama, the Dominican Republic, Belize and Nicaragua, committing them to bar the CCJ from intervening in conflicts between powers in the member countries.

This, indeed, was a step designed to make the CCJ a truly Central American court: at present only three of the original signatories - El Salvador, Honduras and Nicaragua - are subject to its jurisdiction. Each has two magistrates on the court: the 29 March ruling was passed by the majority formed by the first two, with the Nicaraguan magistrates issuing a reasoned dissent.

The very day the CCJ handed down its ruling, President Bolaños vetoed one of the reforms approved by the assembly, the one establishing a ceiling on the tax breaks granted to the media by the constitution. The assembly subjected these tax breaks to the law on fiscal equity, which it approved at the same time as the constitutional amendment. Its declared purpose was to raise fiscal revenues so as to cover a US\$149m fiscal deficit. Bolaños, however, justified his veto on the grounds that curtailing the tax breaks 'affects the freedom of expression.'

Also the same day as the CCJ's ruling, Nicaragua's supreme court (dominated by nominees of the opposition parties) issued its own ruling validating the constitutional reforms approved by the assembly.

Weekly Report - 3 May 2005

NICARAGUA: Protests take Bolaños administration to the brink

For a brief spell last week it looked as if President Enrique Bolaños might be facing the same fate as Lucio Gutiérrez in Ecuador or, earlier, Gonzalo Sánchez de Lozada in Bolivia. A student-led protest against a 20% increase in bus fares had mushroomed into a shutdown of Managua, clashes with the police, a military alert, and a Sandinista-led coalition of mayors formally demanding Bolaños's resignation.

The protest movement had been growing steadily since its launch on 5 April, attracting along the way the support of Sandinista-led unions, including that of the bus drivers. Clashes between protesters and police

left a toll of 17 injuries (12 protesters and five police officers), 68 arrests (followed by 64 court-ordered releases) and 10 torched vehicles. The most dramatic moment was when, on 26 April, Bolaños came under a barrage of stones and water bombs: he was not harmed, but his son Enrique was struck by a stone on the head and had to be hospitalised.

Earlier in the week the opposition-controlled mayors' association, Amunic, led by Managua mayor Dionisio Marengo, issued a document demanding that Bolaños solve the crisis or resign. Presidential spokesman Lindolfo Monjarrez denounced this as a Sandinista plot, and said Bolaños had no intention of resigning.

Still, Bolaños again talked of invoking the OAS Democratic Charter, and there was a flurry of international support for him. General Bantz Craddock, chief of the US Southern Command, who had deliberately stayed away from the installation of Nicaragua's new army commander, General Omar Halleslevens, turned up on 26 April, ostensibly to visit, with Halleslevens at his side, the US military engineers and medics taking part in the New Horizons/Nuevos Horizontes exercises.

The next day Salvadorean President Elías Antonio Saca announced that he had conferred with his Honduran and Guatemalan peers, Oscar Berger and Ricardo Maduro, and that they had agreed to go on 'maximum alert' against any possible 'threat to constitutional order'.

Two days later it was all over. After negotiations between the government, the council of national universities, student leaders and the mayoralty of Managua, agreement was reached: the government and the municipality of Managua would jointly come up with a US\$1.8m subsidy which, for three months, would allow the bus fares to remain at their previous level.

Managua mayor Marengo proclaimed that 'all sectors' had won. Student leader Jasser Martínez said it had been 'a victory of the working people'. Finance minister Mario Arana noted that he would have to go to the national assembly for the necessary appropriation of funds.

A background note: about 800,000 of Managua's 1.2m inhabitants use public transport. The fare increase, which amounted to US\$0.03 per ride, is onerous in a country where 45% of the population lives on less than US\$1 a day. What made the increase necessary was the rise in the price of imported oil, on which Nicaragua is wholly dependent. Prices of essential goods have also risen.

Weekly Report - 24 May 2005

NICARAGUA: OAS called in to gauge 'two headed dictatorship'

For the second time in eight months an OAS mission has arrived in Nicaragua to assess whether there have been breaches, or threatened breaches, of the Inter-American Democratic Charter. This arrival has been welcomed by the beleaguered president, Enrique Bolaños, and looked upon kindly by the US, but it is not at all clear - particularly in the light of recent events in Ecuador - what meaningful action the OAS will be able to take under the banner of the charter.

Bolaños made his beliefs clear on 18 May, when the mission arrived in Managua. 'I'm interested,' he said, 'in the OAS seeing the two-headed dictatorship that is being formed in the national assembly. We want them to assess it, because there should be a balance of powers: all powers must have the same value and status.'

The mission, formed by two officials from the OAS's department of democratic and political affairs, Enrique Lagos and Moisés Benamor, held meetings with representatives of the three powers of state, as well as with political and social leaders.

In the legislative assembly, they heard an immediate counter-attack to Bolaños' claims: top officials of the legislature claimed that it was the executive that was trampling on the Inter-American Democratic Charter, and that they wanted a meeting 'as soon as possible' with the OAS's new secretary-general, José Miguel Insulza.

At issue are the constitutional reforms approved by the assembly which will curtail the power of the presidency. Of these reforms, only one goes beyond the checks that are present elsewhere in the hemisphere's politics: the one allowing the assembly to overturn a presidential veto by simple majority, rather than by a majority of two-thirds. All the reforms were declared null and void last March by the Central American Court (CCJ). The Nicaraguan supreme court then ruled that they were valid and that the CCJ had no business in the matter.

The last time Bolaños called on the OAS, in October, the assembly seemed close to ousting him at the request of the comptroller-general's office. The mission recommended a national dialogue, which got little further than keeping Bolaños in office.

As drafted, the Inter-American Charter can ostracise a government that arises from a coup, or one which violates its own constitution. Other than applying diplomatic pressure, the OAS has so far been unable (and in fact unwilling) to try to apply the charter to situations where rules are bent within a formally constitutional framework - as seen in the accumulation of power by the Sandinistas and Liberals in Nicaragua, and in the blatant disregard for procedural propriety that Ecuador's three powers of state have successively indulged since late 2004.

Outright intervention by the OAS is not even contemplated, except in extreme situations like that in Haiti after President Jean-Bertrand Aristide's ousting - which, in fact, owed more to Brazil's intervention, and the country's desire to display its leadership abilities in a bid to secure a permanent seat on the UN Security Council.