NICARAGUAN INVESTMENT CONDITIONALITY ACT (NICA) OF 2017

Mr. ROYCE of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1389) to oppose loans at international financial institutions for the Government of Nicaragua unless the Government is taking effective steps to hold free, fair, and transparent elections, and for other purposes, with the Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment.

The Clerk read as follows:

Senate amendment: Strike all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.
(a) Short Title.—This Act may be cited as the “Nicaraguan Human Rights and Anticorruption Act of 2018”.
(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Sense of Congress on advancing a negotiated solution to Nicaragua’s crisis.
Sec. 3. Statement of policy.
Sec. 4. Restrictions on international financial institutions relating to Nicaragua.
Sec. 5. Imposition of targeted sanctions with respect to Nicaragua.
Sec. 6. Annual certification and waiver.
Sec. 8. Civil society engagement strategy.
Sec. 9. Reform of Western Hemisphere Drug Policy Commission.
Sec. 10. Termination.
Sec. 11. Definitions.

SEC. 2. SENSE OF CONGRESS ON ADVANCING A NEGOTIATED SOLUTION TO NICARAGUA’S CRISIS.

It is the sense of Congress that—
(1) credible negotiations between the Government of Nicaragua and representatives of Nicaragua’s civil society, student movement, private sector, and political opposition, mediated by the Catholic Church in Nicaragua, represent the best means to reach a peaceful solution to the current political crisis that includes—
(A) a commitment to hold early elections that meet democratic standards and permit credible international electoral observation;
(B) the cessation of the violence perpetrated against civilians by the National Police of Nicaragua and by armed groups supported by the Government of Nicaragua; and
(C) independent investigations into the killings of protestors and others;
(2) negotiations between the Government of Nicaragua and representatives of Nicaragua’s civil society, student movement, private sector, and political opposition, mediated by the Catholic Church in Nicaragua, have not resulted in an agreement as of the date of the enactment of this Act because the Government of Nicaragua has failed to credibly participate in the process.

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States to support—
(1) the rule of law and an independent judiciary and electoral process in Nicaragua;
(2) democratic governance in Nicaragua;
(3) free and fair elections overseen by credible domestic and international observers in Nicaragua;
(4) anti-corruption and transparency efforts in Nicaragua.

SEC. 4. RESTRICTIONS ON INTERNATIONAL FINANCIAL INSTITUTIONS RELATING TO NICARAGUA.

(a) Restrictions.—The Secretary of the Treasury shall—
(1) instruct the United States Executive Director at each international financial institution of the United States to use, vote, and influence the United States to oppose the extension by the International Finance Corporation of any loan or financial or technical assistance to the Government of Nicaragua for a project in Nicaragua;
(2) instruct the United States Executive Director of the International Bank for Reconstruction and Development to use, vote, and influence the United States to oppose the extension by the Bank of any loan or financial or technical assistance to the Government of Nicaragua for a project in Nicaragua; and
(3) instruct the United States Executive Director of each other international financial institution, including the International Monetary Fund, to work with other key donor countries to develop a coherent policy approach to future engagements with and lending to the Government of Nicaragua, in a manner that will advance human rights, including the full restoration of the rights guaranteed to the people of Nicaragua through the commitments made by the Government of Nicaragua as a signatory of the International Covenant on Civil and Political Rights.

(b) Exceptions for Basic Human Needs and Democracy Promotion.—The restrictions under paragraphs (1) and (2) of subsection (a) shall not apply with respect to any loan or financial or technical assistance provided to address basic human needs or to promote democracy in Nicaragua.

(c) Briefing by the Secretary of the Treasury.—The Secretary of the Treasury shall brief the appropriate congressional committees on the effectiveness of international financial institutions in enforcing applicable program safeguards in Nicaragua.

SEC. 5. IMPOSITION OF TARGETED SANCTIONS WITH RESPECT TO NICARAGUA.

(a) In General.—The President shall impose the sanctions described in subsection (c) with respect to any foreign person, including any current or former official of the Government of Nicaragua or any person acting on behalf of that Government, that the President determines—
(1) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have knowingly participated in, directly or indirectly, any activity described in subsection (b); or
(2) to be a leader of an entity that has, or whose members have, engaged in any activity described in subsection (b); or
(b) Exceptions for Basic Human Needs and Democracy Promotion.—The President shall impose the sanctions described in subsection (a) but not the penalties set forth in subsection (c) with respect to any foreign person, including any current or former official of the Government of Nicaragua or any person acting on behalf of that Government, that the President determines—
(1) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have knowingly participated in, directly or indirectly, any activity described in subsection (b); or
(2) to be a leader of an entity that has, or whose members have, engaged in any activity described in subsection (b); or
(c) Sanctions Described.—The President shall impose the following sanctions:

(1) Blocking of Property.—The President may impose blocking of property under paragraphs (1) and (2) of subsection (a) with respect to any foreign person, including any current or former official of the Government of Nicaragua, that the President determines—
(A) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have knowingly participated in, directly or indirectly, any activity described in subsection (b); or
(B) to be a leader of an entity that has, or whose members have, engaged in any activity described in subsection (b); or
(2) Revocation of Visa or Other Documentation.—The President shall revoke the visa or other documentation of any foreign person, including any current or former official of the Government of Nicaragua, that the President determines—
(A) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have knowingly participated in, directly or indirectly, any activity described in subsection (b); or
(B) to be a leader of an entity that has, or whose members have, engaged in any activity described in subsection (b); or

SEC. 6. ANNUAL CERTIFICATION; FUNDING AND WAIVER.

(a) Certification.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall submit to the appropriate congressional committees a report certifying whether the Government of Nicaragua is taking effective steps—
(1) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have knowingly participated in, directly or indirectly, any activity described in subsection (b); or
(2) to be a leader of an entity that has, or whose members have, engaged in any activity described in subsection (b); or
(b) Waiver.—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall annually thereafter, if the President makes a certification under paragraph (a), make a determination that the Government of Nicaragua is taking effective steps—
(1) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have knowingly participated in, directly or indirectly, any activity described in subsection (b); or
(2) to be a leader of an entity that has, or whose members have, engaged in any activity described in subsection (b); or
(c) Waiver.—The Secretary of State may waive the implementation of the sanctions described in subsection (a) with respect to any foreign person if the Secretary determines that such waiver is in the national interest of the United States; and
(d) Consultation.—The Secretary of State shall consult with the appropriate congressional committees before making the determination described in subsection (b) or the waiver described in subsection (c).
(1) to strengthen the rule of law and democratic governance, including the independence of the judicial system and electoral council;
(2) to combat corruption, including by investigating and prosecuting cases of public corruption;
(3) to protect civil and political rights, including the rights of freedom of the press, speech, and assembly of people of Nicaragua, including political opposition parties, journalists, trade unionists, human rights defenders, indigenous peoples, and other civil society activists;
(4) to hold accountable officials of the Government of Nicaragua and other persons responsible for the killings of individuals associated with the protests in Nicaragua that began on April 18, 2018; and
(5) to hold free and fair elections overseen by credible domestic and international observers.

SEC. 6. CIVIL SOCIETY ENGAGEMENT STRATEGY.
Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall brief the appropriate congressional committees on a strategy—

(1) for engaging relevant elements of civil society in Nicaragua, including independent media, human rights, and anti-corruption organizations, to strengthen rule of law and increase accountability for human rights abuses and corruption in Nicaragua; and
(2) for setting forth measures to support the protection of human rights and anti-corruption advocates in Nicaragua.

SEC. 7. REPORT ON HUMAN RIGHTS VIOLATIONS IN NICARAGUA.
In this Act:

(a) in general.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State, acting through the Assistant Secretary of State for Intelligence and Research, and in coordination with the Secretary of the Treasury and the Director of National Intelligence, shall submit to the appropriate congressional committees a report on—

(1) the involvement of senior officials of the Government of Nicaragua, including members of the Supreme Electoral Council, the National Assembly, the judicial system, in human rights violations, acts of significant corruption, and money laundering; and
(2) persons that transfer, or facilitate the transfer of, goods or technologies for use in or with respect to Nicaragua, that are used by the Government of Nicaragua to commit serious human rights violations against the people of Nicaragua.

(b) form.—The report required by subsection (a) may be classified.

SEC. 8. CIVIL SOCIETY ENGAGEMENT STRATEGY.
Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall brief the appropriate congressional committees on a strategy—

(1) for engaging relevant elements of civil society in Nicaragua, including independent media, human rights, and anti-corruption organizations, to strengthen rule of law and increase accountability for human rights abuses and corruption in Nicaragua; and
(2) for setting forth measures to support the protection of human rights and anti-corruption advocates in Nicaragua.

SEC. 9. REFORM OF WESTERN HEMISPHERE DRUG POLICY COMMISSION.
Section 603(1)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017 (Public Law 114–323; 130 Stat. 1938) is amended by striking ‘‘Not later than 60 days after the date of the enactment of this Act, the Commission shall hold an initial meeting to develop and implement’’ and inserting ‘‘At the initial meeting of the Commission, the Commission shall develop and implement’’.

SEC. 10. TERMINATION.
The provisions of this Act (other than section 9) shall terminate on December 31, 2023.

SEC. 11. DEFINITIONS.
In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘‘appropriate congressional committees’’ means—

(A) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Appropriations of the Senate; and
(B) the Committee on Foreign Affairs, the Committee on Financial Services, and the Committee on Appropriations of the House of Representatives.

(2) GOOD.—The term ‘‘good’’ means any article, natural or manufactured substance, material, supply, product, equipment, including inspection and test equipment, and excluding technical data.

(3) PERSON.—The term ‘‘person’’ means an individual or entity.

(4) UNITED STATES PERSON.—The term ‘‘United States person’’ means any United States citizen, permanent resident alien, an entity organized or chartered under the laws of the United States, or a foreign branch of such an entity, or any person in the United States.

Mr. ROYCE of California (during the reading): Mr. Speaker, I ask unanimous consent to dispense with the reading of the amendment.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. ROYCE of California (during the reading): Mr. Speaker, I ask unanimous consent to dispense with the reading of the amendment.

The SPEAKER pro tempore. The amendment is agreed to.

The Speaker read as follows:

Mr. ROYCE of California, Mr. Speaker, I ask unanimous consent to dispense with the reading of the amendment.

This Act may be cited as the ‘‘Sanctioning the Use of Civilians as Defenseless Shields Act’’.

SEC. 2. STATEMENT OF FURTHER PURPOSE.
It shall be the policy of the United States to officially and publicly condemn the use of innocent civilians as human shields.

SEC. 3. IMPOSITION OF SANCTIONS WITH RESPECT TO FOREIGN PERSONS THAT ARE RESPONSIBLE FOR THE USE OF CIVILIANS AS HUMAN SHIELDS.

(a) IMPOSITION OF SANCTIONS.—

(1) MANDATORY SANCTIONS.—The President shall impose sanctions described in subsection (d) with respect to each person on the list described in subsection (c).

(2) PERMISSIVE SANCTIONS.—The President may impose sanctions described in subsection (d) with respect to each person on the list described in subsection (c).

(b) MANDATORY SANCTIONS LIST.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a list of the following:

(1) Each foreign person that the President determines, on or after the date of the enactment of this Act—

(A) is a member of Hizballah or is knowingly acting on behalf of Hizballah; and
(B) knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack.

(2) Each foreign person that the President determines, on or after the date of the enactment of this Act—

(A) is a member of Hamas or is knowingly acting on behalf of Hamas; and
(B) knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack.

(3) Each foreign person or agency or instrumentality of a foreign state that the President determines, on or after the date of the enactment of this Act, knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack.

(c) PERMISSIVE SANCTIONS LIST.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a list of each foreign person that the President determines, on or after the date of the enactment of this Act, knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack.

(d) SANCTIONS DESCRIBED.—The sanctions to be imposed on a foreign person or agency or instrumentality of a foreign state under this subsection are the following:

(1) BLOCKING OF PROPERTY.—The President shall seize all of the powers granted to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in property and interests in property of the foreign person or agency or instrumentality of a foreign state if such property or interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(2) ALIENS INELIGIBLE FOR VISAS, ADMISSION, OR PAROLE.