Olsson Frank Weeda
Terman Matz PC

2000 Pennsylvania Avenue NW
Suite 4003
Washington, DC 20006
www.ofwlaw.com

Phone: (202)789-1212 • Fax (202)234-3550

Jessica R. Rifkin
Principal
jrifkin@ofwlaw.com

Thomas J. O'Donnell
Of Counsel
todonnell@ofwlaw.com

Robert M. Kossick, Jr.
Principal
rkossick@ofwlaw.com

Denise Calle
Associate Attorney
dcalle@ofwlaw.com

Ben Dash
Policy Advisor
bdash@ofwlaw.com

MEMORANDUM

December 10, 2025

BY ELECTRONIC MAIL

FROM: Olsson Frank Weeda Terman Matz PC
RE: USTR Section 301 Action on Nicaragua's Acts, Policies, and Practices Relating to Labor Rights, Human Rights and Fundamental Freedoms, and the Rule of Law

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On December 10, 2025, the Office of the U.S. Trade Representative (USTR) announced targeted responsive action under Section 301 of the Trade Act of 1974 against Nicaragua. Following a determination that the Ortega-Murillo regime's acts, policies, and practices are unreasonable and burden U.S. commerce, USTR will impose a phased-in tariff on all imported Nicaraguan goods that are **not originating** under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR).

Operational Details and Tariff Schedule

Effective January 1, 2026, the action targets goods falling outside CAFTA-DR rules of origin. This strategic scope aims to pressure the Nicaraguan government while mitigating disruption to U.S. businesses and supply chains integrated through the free trade agreement. The tariff implementation follows this schedule:

- **January 1, 2026:** Rate set at 0 percent.

- **January 1, 2027:** Rate increases to 10 percent.
- **January 1, 2028:** Rate increases to 15 percent.

These duties will stack with other applicable charges, such as the existing 18 percent Reciprocal Tariff. USTR indicated that this timeline and these rates are subject to modification should the Nicaraguan government fail to address the cited issues.

Strategic Calibration and Industry Impact

USTR's final determination represents a calibrated approach compared to the options originally proposed in the October 23 notice, which included the *potential* suspension of CAFTA-DR benefits and tariffs up to 100 percent. *The decision to limit tariffs to non-originating goods and utilize a two-year phase-in period is explicitly designed to provide U.S. enterprises time to "shift operations to other CAFTA-DR countries."*

This calibration reflects the input of over 2,000 public comments, split roughly evenly between support for action and opposition based on economic harm. Commenters requesting exclusions or phased approaches represented major sectors including *textiles and apparel, cigars, coffee, medical devices, beef, rice, and seafood*. USTR concluded that broad suspension of CAFTA-DR benefits could cause disproportionate harm to U.S. interests, particularly small- and medium-sized businesses.

Basis for Actionability

The Section 301 investigation confirmed that Nicaragua's actions burden U.S. commerce by creating unfair competition and a high-risk investment environment. Key findings include:

- **Labor Rights:** Systematic suppression of wages, as Nicaragua maintains the lowest hourly wage in the CAFTA-DR region (approx. 16 times lower than the U.S.), and reliance on child labor in sectors such as gold mining and gravel production.
- **Rule of Law:** The dismantling of judicial independence and the forced closure of business chambers, including the Superior Council of Private Enterprise (COSEP) and the American Chamber of Commerce (AmCham).
- **Property Seizure:** Arbitrary expropriation of assets belonging to U.S. entities, including Riverside Coffee, LLC and the U.S.-based evangelical organization Mountain Gateway.

USTR will continue to monitor the efficacy of these actions and retain authority to take additional measures if necessary to eliminate the investigated practices. A subsequent notice implementing the specific tariff codes will be issued pursuant to Section 305(a) of the Trade Act.

What Should Importers Do Now?

Importers claiming CAFTA-DR preferential treatment should implement a structured origin compliance program that includes correctly classifying products, mapping each item to the applicable CAFTA-DR rule of origin, and obtaining robust supporting documentation from

suppliers (such as bills of materials, production records, and detailed origin certifications) to substantiate tariff shift or regional value content determinations.

They should also formalize internal review and approval procedures for preferential claims, maintain organized records for the full statutory retention period, and conduct periodic internal audits to confirm that ongoing sourcing or production changes have not undermined qualification. Because errors in origin determinations can trigger duty assessments, penalties, and even broader compliance inquiries, importers are well served to contact experienced trade counsel to help design their CAFTA-DR origin controls, validate complex origin analyses, address gray areas in the rules, and manage any voluntary disclosures or responses to customs inquiries that may arise.

The previous memoranda sent discussing presidential actions regarding these fast-moving trade developments are:

1. American First Trade Policy, Jan. 20, 2025
2. U.S. Imposes Tariffs on Mexico, Canada, and China, Feb. 2, 2025
3. Update: U.S. Imposes Tariffs on Mexico, Canada, and China, Feb. 3, 2025 (Canadian/Mexican tariffs suspended; Effective date of 10% tariff on products of China and Hong Kong)
4. Update on Trade War, Feb. 5, 2025(China's Response to New U.S. Tariffs, Impacted Industries, Potential Forthcoming U.S. Trade Activity, and Tariff Mitigation for Machinery and Parts of Machinery for Agricultural and Horticultural Use)
5. Update on Trade War: U.S. Imposes Tariffs on Steel and Aluminum, Response from Targeted Countries, and China Imposes Retaliatory Tariffs, Feb. 12, 2025
6. Update on Trade War: U.S. Releases Lists of Additional Derivative Articles of Steel and Aluminum Which Will be Subject to Section 232 Tariffs, and Issues a Presidential Memorandum on Reciprocal Trade and Tariffs, Feb. 17, 2025
7. Update on Trade War: U.S. to Move Forward with 25% Tariffs on Mexico and Canada Products and Double Tariff on Chinese-Origin Products to 20%; Section 232 Investigation on Copper Imports; USTR Requests Comments, Feb. 28, 2028.
8. Trade War Update, U.S. Tariffs on Canadian and Mexican Origin Goods; Increase in U.S. Tariffs on China; New Section 232 Tariffs on Derivative Articles of Steel and Aluminum Go into Effect; Tariff Investigations on Timber, Mar. 4, 2025.
9. Trade War Update: New Section 232 Tariffs on Derivative Articles of Steel and Aluminum Go into Effect Today – March 12, 2025.
10. Trade War Update: U.S. Imposes Automotive Tariffs; "Secondary Tariffs" on Countries Importing Oil or Gas from Venezuela; CBP Issues FAQs on Steel and Aluminum Derivatives; April 2 Reciprocal Tariff Actions; and Anticipated Sectoral Tariffs on Pharmaceuticals and Lumber, March 29, 2025.
11. Reciprocal Tariffs and other tariff actions taken on Tariff Liberation Day, April 3, 2025.
12. Section 232 on Pharmaceuticals, Semiconductors, Critical Minerals, Electronic goods, FAQ; April 17, 2025.

13. Stacking Tariffs, De Minimis Changes, Auto Tariff Adjustments, Section 232 Inclusion Process, CBP's IEEPA FAQ Update, CBP Summit, and Potential 100% Tariff on Films May 7, 2025.
14. 90-Day Pause for 125% IEEPA China Tariff UK-US Fair Trade Deal, and Trade Negotiations with other Nations, May 12, 2025.
15. OFW Memo - Trade War Update CIT Ruling On IEEPA Tariffs and Subsequent Actions, June 2, 2025.
16. Section 232 Tariffs on Steel and Aluminum and their Derivatives Double to 50% Effective June 4, June 5, 2025.
17. Trade War Update: Terms of the U.S.-U.K. Deal and other Trade Updates, June 19, 2025.
18. US Trade Deals Announced with Indonesia Japan Philippines_July 25 2025.
19. Trade Update: October 15, 2025-November 5, 2025, November 5, 2025.
20. OFW Memo - Customs and Trade Update_SCOTUS IEEPA Oral Argument and Potential Refunds Options _ November 6, 2025
21. Preserve Your Rights to Potential IEEPA-Based Tariff Refunds, December 5, 2025.
22. USTR Public Hearing on the First Joint Review of the USMCA, December 5, 2025.

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We will continue to monitor this situation closely and will report all significant developments. In the interim, please do not hesitate to reach out to us with questions or requests for additional information at Jessica Rifkin (jrifkin@ofwlaw.com) or Denise Calle (dcalle@ofwlaw.com).

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OFW will continue to monitor issues pertaining to trade. Please let us know if you have any questions.