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Central America: Expiration of Targeted Sanctions Authority

Central America (see **Figure 1**) has received considerable attention from U.S. policymakers over the past decade, as it has become a major transit corridor for illicit drugs and a top source of irregular migration to the United States. Congress appropriated nearly $5.1 billion of foreign assistance for Central America from FY2016 to FY2023 to address the underlying economic, governance, and security challenges that have allowed illicit trafficking to flourish and appear to have prompted millions of people to leave their homes. Corruption and democratic backsliding have hindered U.S. objectives in the region by deterring investment, siphoning scarce resources away from government agencies and programs, and facilitating criminal co-optation of security and justice-sector institutions.

Figure 1. Map of Central America

Source: CRS Graphics.

Among other efforts to stem the erosion of the rule of law in Central America, Congress enacted the United States-Northern Triangle Enhanced Engagement Act (P.L. 116-260, Division FF, Subtitle F; hereinafter, "the act") in December 2020. Section 353(b) of the act, as amended by the Reinforcing Nicaragua's Adherence to Conditions for Electoral Reform (RENACER) Act of 2021 (P.L. 117-54), requires the President to submit an annual report to Congress on individuals in El Salvador, Guatemala, Honduras, and Nicaragua who have "knowingly engaged in actions that undermine democratic practices or institutions" or in "significant corruption or obstruction of investigations into such acts of corruption." This report is colloquially known as the *Engel List*, after the act's sponsor, former Representative Eliot Engel.

Section 353(c) of the act directs the President to deny entry into the United States to, and impose visa restrictions on, any individuals listed, with certain exceptions. The President delegated those functions to the State Department, which has publicly designated 170 individuals—including five former presidents—pursuant to the act (in July 2021, September 2021, February 2022, March 2022, July 2022, and July 2023). Those sanctions, as well as the authority to impose such sanctions, are scheduled to expire on December 27, 2023, unless extended by Congress. There is some uncertainty regarding the expiration, however, because the termination clause appears to erroneously reference subsection (b), the reporting requirement, instead of subsection (c), the sanctions authority.

Potential Implications

It is difficult to assess what, if any, impact Section 353 sanctions have had on democracy and governance in Central America. The threat of Section 353 sanctions reportedly has deterred some Central American policymakers from engaging in corrupt or undemocratic activities, at least in some instances. Civil society organizations also have welcomed the Section 353 list as a "name and shame" tool to begin holding political and economic elites accountable in a region characterized by high levels of impunity and state capture.

Nevertheless, conditions have continued to deteriorate in Central America and some individuals designated under Section 353 have continued to erode the rule of law and democratic institutions. For example, Rafael Curruchiche, the head of Guatemala's Special Prosecutor's Office Against Impunity, allegedly has continued to persecute anti-corruption investigators and interfered in Guatemala's 2023 electoral process since the State Department designated him under Section 353 in June 2022.

Despite these mixed results, a congressional decision to allow the Section 353 authority to expire may be perceived in Central America as a sign the U.S. government is deprioritizing democracy and governance concerns. That perception, and the termination of sanctions leveled to date, could embolden those who had been designated under the act and their political allies. It also could have a demoralizing effect on the public officials, civil society advocates, and investigative reporters who have sought to combat democratic backsliding, often under threat.

The executive branch could seek to counter those perceptions by using other authorities. The act appears to require the President to continue producing an annual list of corrupt and undemocratic actors in the region whether or not the sanctions authority expires. Regarding those involved in corruption, the executive branch could choose to impose targeted sanctions pursuant to relevant global authorities—the Global Magnitsky Human Rights Accountability Act (P.L. 114-328, Title XII, Subtitle F; as implemented through Executive Order 13818) and/or Section 7031(c) of annual Department of State, Foreign Operations, and Related Programs (SFOPS) appropriations legislation (P.L. 117-328, Division K for FY2023). For example, Guatemalan Attorney General Maria Consuelo Porras Argueta de Porres was publicly designated for significant corruption under Section 353 of the act in September 2021 and then publicly designated along with family members under Section 7031(c) of the FY2022 SFOPS legislation in May 2022.

The Section 353 authority to impose visa sanctions on individuals who undermine democratic practices or institutions is more unique. To date, nearly half of the individuals sanctioned under the act have been designated by the State Department for having engaged in undemocratic actions (see **Table 1**). The majority of those individuals are Nicaraguans and could be subject to visa and asset-blocking sanctions for "significant actions or policies that undermine democratic processes or institutions" pursuant to the Nicaragua Investment Conditionality Act of 2018 (NICA Act; P.L. 115-335, as amended by P.L. 117-54) and Executive Order 14088. The behavior for which the remaining individuals were designated may not fall within the scope of another existing sanctions program.

Table 1. Individuals Publicly Designated Under Section 353, by Country and Sanctionable Behavior

(as of September 1, 2023)

	Corruption	Undemocratic Actions	Total
El Salvador	19	14	31
Guatemala	30	20	48
Honduras	44	2	46
Nicaragua	—	45	45
Total	93	81	170

Source: CRS analysis of U.S. Department of State reports.

Note: Some figures do not sum to totals because some individuals have been designated for multiple sanctionable behaviors.

Nevertheless, the executive branch has broad authority to restrict the entry of foreign nationals into the United States under the Immigration and Nationality Act (8 U.S.C. §1182). The President also could establish a new sanctions program for Central America by declaring a national emergency under the National Emergencies Act (50 U.S.C. §§1601 et seq.) and invoking the authorities granted in the International Emergency Economic Powers Act (50 U.S.C. §§1701 et seq.).

Options for Congress

Prior to December 27, 2023, Congress may consider whether to extend or modify the Section 353 sanctions authority or allow it to expire. Congress also could make more limited technical corrections to the legislation to clarify congressional intent with regard to the termination clause.

Among other potential modifications, Congress could direct the President to impose asset-blocking sanctions—in addition to the existing visa restrictions—on those designated under Section 353. Such a change could potentially increase the deterrent and punitive effects of the authority. However, it also could spark increased hostility among those designated, potentially reducing the willingness of such individuals and their political allies to cooperate with the U.S. government on other issues.

Conversely, Congress could end the annual reporting requirement and grant the President increased deference in the application of sanctions. Increased flexibility could allow the executive branch to apply sanctions in a more strategic fashion—for example, by seeking to break up corrupt coalitions by isolating a few key individuals rather than producing long lists that may spur broad political backlash. On the other hand, the act was originally drafted, in part, due to congressional disagreement with then-President Donald Trump over U.S. policy in Central America, and the lack of a statutory requirement could have the effect of decreasing executive branch action on democracy and governance issues.

Congress could enact a short-term extension of Section 353 authority while it continues to study the issue. H.Rept. 118-146, accompanying the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2024 (H.R. 4665), would direct the Secretary of State to submit a report to selected congressional committees within 90 days on how U.S. agencies coordinate sanctions policies to influence the behavior of individuals in Central America involved in corruption, human rights abuses, and anti-democratic actions and on challenges to sanctions implementation in the region.

Should Congress allow the Section 353 sanctions authority to expire, it could use other policy tools to advance U.S. democracy and governance objectives in Central America. These policy tools may include global sanctions authorities, foreign assistance appropriations, and/or legislative withholding requirements on such assistance. For example, P.L. 117-328 appropriated $61.5 million in foreign assistance to support entities and activities to combat corruption and impunity in Central America in FY2023. The legislation also required the State Department to withhold a portion of the aid appropriated for the central governments of El Salvador, Guatemala, and Honduras until the Secretary of State could certify those governments were combating corruption and impunity, implementing reforms to strengthen the rule of law, and protecting the rights of civil society groups and opposition political parties, among other conditions.

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