

HKND and the Canal de Nicaragua

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1. Overview: Recent FDI Inflow to Nicaragua

Recently, the Foreign Direct Investment (“FDI”) inflows into Nicaragua have begun to rise. In 2015, the FDI volume marks about six percent of GDP. In 2013, Nicaragua attracted USD 1.5 billion of FDI, a 17 percent increase from 2012, reaching the highest level in seven years.¹ Investments in mining, energy, service and tax-free zones posted the great attraction. In relation to GDP, their proportion was the highest in Central America. As free-trade zones have strongly supported the growth of FDI, the country is expected to attract more than USD 11 billion by 2016.²

The Law to Promote Foreign Investment [Ley de Promoción de Inversiones Extranjeras], enacted in 2000, allows foreign investors to hold up to 100 percent of capital in all sectors.³ The Law guarantees the repatriation of capital and profits, as well as fast and efficient compensation in cases of expropriation for public interest reasons.⁴ It also allows investors to choose their arbitration tribunal in the event of conflict.⁵

Nicaragua, however, has several weaknesses in attracting foreign investment, such as lack of data and information on local institutions and bureaucratic court system. According to the “2015 Doing Business” report issued by the World Bank, Nicaragua ranked in 119th out of 189 countries.⁶ Table 1 shows the Nicaragua’s

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Ranking of 'Doing Business.'

Table 1: Nicaragua's Ranking of 'Doing Business'

119	Nicaragua	58.09 ↑
120	Brazil	58.01 ↑
121	St. Kitts and Nevis	58.00 ↑

Note: The rankings are benchmarked to June 2014 and based on the average of each economy's distance to frontier (DTF) scores for the 10 topics included in this year's aggregate ranking.

In order to improve her foreign investment environment, Nicaragua is especially expected to further develop local infrastructure systems such as a pipeline connecting the opposite coasts, railways, free trade zones, deep water ports, and a new international airport. Another noticeable project is the Grand Canal being financed by Chinese investors.⁷

2. Design

The Nicaraguan Grand Canal (Canal de Nicaragua) Project began in June 2013 when the Nicaragua's National Assembly approved a bill to grant a 50-year concession to finance and manage the project to the private Hong Kong Nicaragua Canal Development Investment Company (hereinafter HKND Group) headed by Wang Jing.⁸ The concession can be extended for another 50 years once the waterway is operational. The Canal construction is estimated to cost up to USD 40-50 billion with completion scheduled in five years.⁹

The Canal will be located in southern Nicaragua. It would traverse the country from the Pacific shoreline near Brito, up the Rio Brito valley, over the continental divide, and down the Rio Las Lajas valley to Lago de Nicaragua approximately 4 kilometers south of the town of San Jorge. It would then cross Lago de Nicaragua approximately 4 kilometers south of the Isla de Ometepe, reaching the eastern Lago de Nicaragua shoreline about 8 kilometers south of the town of San Miguelito. It would then move up the Rio Tule stream valley and over the Caribbean highlands, with a maximum elevation along the canal alignment of 224