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## **The Intent and Impact of U.S. Sanctions on Cuba and Venezuela**

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National governments and international bodies like the United Nations (U.N.) and the European Union impose economic sanctions to force changes in behavior, whether that is through coercion, deterrence, punishment or shame to the countries, entities and individuals that endanger their interests or violate international norms of behavior. Sanctions are also used to advance foreign policy goals like counterterrorism, nonproliferation, and the promotion of democracy and human rights. For the U.S., the Trump administration's sanctions program to

pressure and deprive the Maduro regime economically has been prominent in the news lately and is considered a lower-cost, lower-risk, middle course of action between diplomacy and the use of military force to restore democracy in Venezuela. This article will examine the intent of U.S. sanctions and distinguish between the different types of sanctions while assessing their positive and negative impacts in the cases of Cuba and Venezuela. The complex and dynamic nature of these sanctions programs underscores the need for compliance officers to keep constantly abreast of changes to designations.

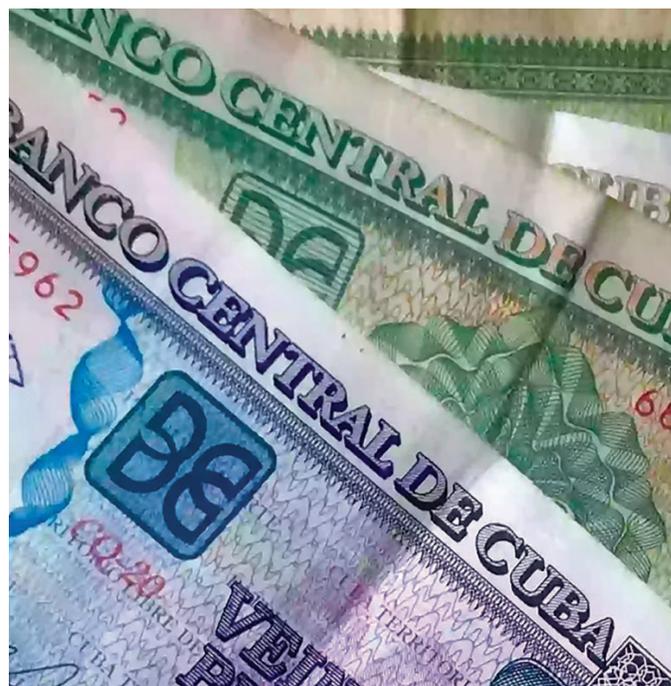
### U.S. sanctions programs

The U.S. employs comprehensive and targeted economic and trade sanctions against rogue states, dictators, terrorists, drug traffickers, proliferators of weapons of mass destruction and human rights abusers that threaten U.S. national security. U.S. sanctions are levers designed to inflict short-term economic pain intended to encourage behavioral change in those targeted nation states and non-state actors. They can be used alone or to complement the diplomatic, military, information and other economic instruments of national power to achieve particular U.S. foreign policy goals.

U.S. sanctions originate from the executive branch via presidential executive orders under the International Emergency Economic Powers Act, which grants the president powers to govern a “national emergency” in response to an “unusual or extraordinary threat,” or from Congress through specific laws. They take a variety of forms, including travel bans, asset freezes, arms embargoes, capital restraints, foreign aid reductions and trade restric-

tions.<sup>1</sup> The U.S. also works to remove economic sanctions when appropriate to reward and incentivize improved behavior or demonstrate U.S. support for newly established democratic governments.<sup>2</sup> The U.S. Department of Treasury’s Office of Foreign Assets Control (OFAC) maintains and amends a number of sanctions lists that include measures against narcotics traffickers, terrorist groups and rogue states such as Cuba, Iran, North Korea, Syria, Ukraine, Russia and Venezuela, among others.<sup>3</sup>

### U.S. sanctions on Cuba



The U.S. has sanctioned Cuba longer than any other country with the intention of changing the Cuban regime. In February 1962, at the height of the Cold War, U.S. President John F. Kennedy proclaimed a

<sup>1</sup> Jonathan Masters, “What Are Economic Sanctions?” Council on Foreign Relations, August 12, 2019, <https://www.cfr.org/backgrounder/what-are-economic-sanctions>

<sup>2</sup> “Economic Sanctions Program, Countering Terrorist Financing, Anti-Money Laundering, and Conflict Minerals, U.S. Department of State” <https://www.state.gov/economic-sanctions-programs/page/2/>

<sup>3</sup> “United States Global Sanctions Guide,” Eversheds Sutherland, <https://sanctionsguide.eversheds-sutherland.com/countries/the-u-s/>

trade embargo between the U.S. and Cuba to counter Fidel Castro's government—an embargo which remains in place to this day. In 1982, U.S. President Ronald Reagan designated Cuba as a “state sponsor of terrorism” for its support of leftist militant groups in Latin America and Africa. U.S. Presidents George H.W. Bush and Bill Clinton stepped up sanctions and stated the embargo would remain in place until Cuba transitioned to a democratically elected government that excludes the Castro family and upholds fundamental freedom, pursuant to the Cuba Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity Act of 1996.<sup>4</sup> The U.S. embargo against Cuba is enforced through the Cuban Assets Control Regulations and administered by the Department of Commerce and the Department of the Treasury.

Upon assuming office, President Barack Obama sought to normalize relations with Cuba. He eased remittances restrictions to Cuba from Cuban-Americans and permitted U.S. citizens to visit Cuba for religious and educational purposes. On December 17, 2014, Presidents Obama and Raul Castro announced a restoration of full diplomatic relations for the first time since 1961. On May 29, 2015, the U.S. formally removed Cuba from the list of state sponsors of terrorism; the Cuban and U.S. embassies were restored in Washington and Havana on July 20, 2015. On March 20, 2016, President Obama became the first sitting U.S. president to visit Cuba since Calvin Coolidge in 1928. Despite the U.S.-Cuban rapprochement and prospects of political and economic liberalization in Cuba, the U.S. embargo remained in place as Congress is required to lift the embargo.

President Donald Trump reversed direction by taking

a hard-line approach on Cuba. He viewed Obama's administration policy toward Cuba as a “one-sided” deal. This reversal was evident in a November 2018 speech in Miami where National Security Advisor John Bolton included Cuba in what he coined the “troika of tyranny” and blamed the Cuban government of propping up the Maduro regime in Venezuela. Bolton attributed “the cause of immense human suffering, the impetus of enormous regional instability and the genesis of a sordid cradle of communism in the Western Hemisphere” to the governments of Cuba, Venezuela and Nicaragua. He also stated, “under President Trump, the United States is taking direct action against all three regimes to defend the rule of law, liberty, and basic human decency in our region.”<sup>5</sup> This speech previewed the administration's aggressive sanctions policy toward all three countries. President Trump canceled the easing of travel and trade restrictions, downsized the embassy and reiterated support for the embargo in order to encourage an end to the leftist authoritarian rule in Cuba. Most recently, effective June 5, 2019, the Trump administration has prohibited U.S. travelers from participating in groups for people-to-people educational travel and banning visits to Cuba by cruise ship, yacht or private/corporate aircraft.<sup>6</sup>

### Impact of the U.S. embargo

After 57 years of the embargo, the Castro-backed government continues to control Cuba, calling into question the effectiveness of the decades-old U.S. sanctions program. The U.S. embargo has been criticized for depriving the Cuban population of econom-

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<sup>4</sup> Claire Felter, Danielle Renwick and Rocio Cara Labrador, “U.S.-Cuba Relations,” Council on Foreign Relations, March 7, 2019, <https://www.cfr.org/backgrounder/us-cuba-relations>

<sup>5</sup> Alex Ward, “John Bolton just gave an ‘Axis of Evil’ speech about Latin America,” Vox, November 1, 2018, <https://www.vox.com/world/2018/11/1/18052338/bolton-cuba-venezuela-nicaragua-speech-troika-tyranny>

<sup>6</sup> Ibid.

ic development, trade, tourism, food and medicine. The Cuban government estimates that U.S. trade restrictions have cost the country some \$4.6 billion in 2015 and more than \$125 billion since the start of the embargo.<sup>7</sup> Official Cuban statistics indicate that the economy has grown just 2.4% on average per year over the past decade, much less than the 7% annual growth that Cuba needs in order to develop.<sup>8</sup> In 2012, the U.S. Chamber of Commerce—which opposes the embargo—estimated that the U.S. embargo cost the U.S. new jobs as well as \$1.2 billion annually in lost sales of exports. Critics also believe that the embargo cuts the Cuban people from technology and internet access since U.S. internet companies, like Google, would be sanctioned for offering certain services. The extent of economic suffering caused by the U.S. embargo on Cuba is difficult to evaluate due to a lack of accessible and reliable data.

### Venezuela-related sanctions

Under the Trump administration, U.S. policy toward Venezuela is to use diplomatic, financial, economic and political pressure to support the duly recognized president, Juan Guaidó, and restore democracy to Venezuela. Targeted economic sanctions are intended to pressure Nicolás Maduro and his regime to step down and provide off-ramp options to lift sanctions on certain individuals and entities. The program for Venezuela includes terrorism-related and drug-trafficking-related sanctions, under the Foreign Narcotics Kingpin Designation Act, against 22 individuals and 27 companies, including former intelligence

chief Hugo Carvaval, defense minister Henry Rangel and former Vice President Tareck el Aissami.

In addition, Congress enacted the Venezuela Defense of Human Rights and Civil Society Act of 2014 in response to increasing antidemocratic actions, human rights violations and corruption under Maduro's regime. President Obama issued executive order 13692 in March 2015 to target (for asset blocking and visa restrictions) those involved in undermining democracy, committing human rights abuse, limiting freedom of expression or peaceful assembly, as well as public corruption by senior Venezuelan officials, present and former. The Department of the Treasury has financial sanctions on 82 Venezuelans pursuant to executive order 13692. Under the Trump administration, the Department of the Treasury has sanctioned an additional 75 Venezuelan government and military officials and is threatening to sanction more. These officials include President Maduro and his wife, Cilia Flores; Executive Vice President Delcy Rodríguez; United Socialist Party of Venezuela Vice President Diosdado Cabello; eight supreme court members; the leaders of Venezuela's army, national guard and national police; four state governors; the director of the Central Bank of Venezuela; and the foreign minister.<sup>9</sup>

On May 7, 2019, the Department of the Treasury lifted sanctions against the head of Venezuela's intelligence service, General Manuel Cristopher Figuera, who recently broke ranks with President Maduro and is collaborating with the Guaidó team.<sup>10</sup> This shows how the U.S. government incentivizes certain behavior and rewards cooperation through sanctions relief.

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<sup>7</sup> "Treasury and Commerce Implement Changes to Cuba Sanctions Rules," U.S. Department of Treasury, June 4, 2019, [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba\\_fact\\_sheet\\_20190604.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_fact_sheet_20190604.pdf)

<sup>8</sup> Nelson Acosta, "Cuba launches new international campaign against U.S. embargo," Reuters, September 9, 2016, <https://www.reuters.com/article/us-cuba-usa-embargo-idUSKCN11F2SG>

<sup>9</sup> "Venezuela: Overview of U.S. Sanctions," Congressional Research Service, July 5, 2019, <https://fas.org/sgp/crs/row/IF10715.pdf>

<sup>10</sup> *Ibid.*

When the Maduro government launched a cryptocurrency known as the “petro” to circumvent sanctions hurting the Venezuelan economy in early 2018, President Trump promptly issued executive order 13827 in March of that year to prohibit transactions involving the Venezuelan government’s digital currency, coin or token.

### Oil and gold sector sanctions



To further pressure the Maduro regime economically, the Trump administration expanded the sanctions program by targeting oil and gold, Venezuela’s top revenue generating sectors under executive order 13850. Venezuela has the world’s largest proven oil reserves, totaling 302.81 billion barrels at the end of 2017, and heavily relies on this sector since 95% of its exports are oil and petroleum products. On January 28, 2019, the Department of the Treasury designated Petroleum of Venezuela (PDVSA), Venezuela’s state-owned oil and gas company, and sub-

jected it to U.S. sanctions. As a result, all property and interests in property of PDVSA subject to U.S. jurisdiction were blocked, and U.S. persons generally are prohibited from engaging in transactions with the company. At the same time, the Department of the Treasury/OFAC issued general licenses to allow certain transactions and activities—such as with PDV Holding, Inc. (PDVH) and CITGO Holding, Inc., two U.S.-based PDVSA subsidiaries—to ease the impact of these new sanctions on the U.S. economy. PDVH, CITGO and other U.S. companies were also authorized to import petroleum from PDVSA through April 28, 2019, although payments benefiting PDVSA were to be made to a blocked account in the U.S. Several U.S. companies with operations in Venezuela involving PDVSA are authorized to continue their operations through July 27, 2019.<sup>11</sup>

On March 11, 2019, the Department of the Treasury sanctioned the Moscow-based Evrofinance Mosnarbank, jointly owned by Russia and Venezuela, for helping PDVSA funnel its cash flow from oil sales. On March 19, it sanctioned Venezuela’s state-owned gold sector company, Minerven, for using illicit gold operations to help the regime financially. On March 22, it sanctioned the state-affiliated Venezuelan Economic and Social Development Bank and the five subsidiaries the Maduro regime uses to move money outside of Venezuela.<sup>12</sup>

In April 2019, the Department of the Treasury sanctioned 44 vessels (along with six shipping companies) involved in transporting Venezuelan oil, including five companies that have transported Venezuelan oil to Cuba. On April 17, the Department of the Treasury sanctioned the Central Bank of Venezuela in order to

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

cut off its access to U.S. currency and limit its ability to conduct international financial transactions.<sup>13</sup> All these Venezuela-related sanctions and general licenses issued by OFAC illustrate how complicated these programs can be and the need for private-sector actors to monitor updates to OFAC listings closely.

### Impact of Venezuela-related sanctions



Critics believe that U.S. sanctions against Maduro's regime are not working—Maduro continues to be in control of Venezuela despite Guaidó's ascent as the internationally recognized president in January 2019. The sanctions are also being blamed for exacerbating the humanitarian crisis, evidenced by food, medicine and energy shortages, mass migration and limits to country's oil industry. However, Venezuela's economic collapse began well before the imposition of U.S. sanctions due to the Chavez and Maduro re-

gime's gross economic management, unsustainable subsidies, falling world oil prices and rampant corruption. The International Monetary Fund estimates that Venezuela's GDP has fallen by around 50% since 2013 and expects inflation to exceed 10,000,000% this year. In April 2019, U.N officials reported that 90% of Venezuelans are living in poverty, seven million are in need of humanitarian assistance and an estimated four million have left the country.<sup>14</sup>

While it is difficult to assess the impact of sanctions since they take time to take effect, Venezuela is showing signs of distress with power outages and a shortfall of foreign currency income. The Venezuelan oil embargo is also hurting Maduro's regime allies, like Cuba and Nicaragua, which are heavily dependent on Venezuelan oil and petroleum products. The U.S. sanctions are actually imposed on visible, licit economic activities. Unfortunately, the Maduro regime is living off the illicit economy, based on off-the-book oil sales, gold smuggling, drug trafficking and widespread corruption. Venezuela under Hugo Chavez and Maduro has been characterized as a mafia state, engaged in drug, arms and human trafficking and supporting rogue states like China, Iran and Russia. The U.N. estimated that in 2018 alone, 240 metric tons of cocaine crossed into Venezuela from Colombia to be flown out of the country with a street value of around \$39 billion.<sup>15</sup> Two of Maduro's nephews were convicted in a U.S. court and sentenced to 18 years in prison for trying to transport 800 kilos of cocaine into the U.S.

<sup>14</sup> Kenneth Rapoza, "No, U.S. Sanctions Are Not Killing Venezuela. Maduro Is," *Forbes*, May 3, 2019, <https://www.forbes.com/sites/kenrapoza/2019/05/03/no-u-s-sanctions-are-not-killing-venezuela-maduro-is/#7074cb984343>

<sup>15</sup> Nick Paton Walsh, Natalie Gallón and Diana Castrillon, "Corruption in Venezuela has created a cocaine superhighway to the US," April 17, 2019, *CNN*, <https://www.cnn.com/2019/04/17/americas/venezuela-drug-cocaine-trafficking-intl/index.html>

<sup>13</sup> Ibid.

### **Conclusion**

U.S. sanctions programs against Cuba and Venezuela demonstrate both the impact and limitations of this economic instrument of national power. Despite formidable economic pressure on these countries, the sanctions have not yet led to desired regime change and a transition to democracy. Since U.S. sanctions policy is so dynamic and complex, it is essential to monitor updates to the Department of the Treasury/OFAC designations constantly to ensure compliance by private-sector actors. Sanctions are imposed on the transparent aspects of the licit economy like the banking, trade and energy industries. With Venezuela, the Maduro regime might be able to sustain itself by relying on the illicit economy despite the increasingly stringent sanctions regime. Economic sanctions are just one of the instruments of national power at a government's disposal and must be combined with diplomacy and threat or actual use of force to achieve foreign policy goals.

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