

Calendar No. 73

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-29

BANNING OPERATIONS AND LEASES WITH
THE ILLEGITIMATE VENEZUELAN
AUTHORITARIAN REGIME ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 257

TO PROHIBIT CONTRACTING WITH PERSONS THAT
HAVE BUSINESS OPERATIONS WITH THE MADURO
REGIME, AND FOR OTHER PURPOSES



MAY 16, 2023.—Ordered to be printed

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MAY 16, 2023.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 257]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 257) to prohibit contracting with persons that have business operations with the Maduro regime, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 257, the *Banning Operations and Leases with the Illegitimate Venezuelan Authoritarian Regime (BOLIVAR) Act*, is to prohibit federal agencies from contracting for the procurement of goods or services with any person that has business operations with an authority of the government of Venezuela that is not recognized as the legitimate government of Venezuela by the United States Government. This prohibition does not apply to contracts that support United States Government activities in Venezuela, to those who have a valid license from the Office of Foreign Assets

Control, or to contracts related to the American diplomatic mission in Venezuela. The legislation also provides exceptions for instances where the Secretary of State determines that the business operations with the illegitimate Venezuelan government are necessary for the provision of humanitarian assistance, disaster relief, other urgent life-saving measures, noncombatant evacuations, or is otherwise in the national security interests of the United States.¹

II. BACKGROUND AND NEED FOR THE LEGISLATION

Nicolás Maduro was elected President of Venezuela on April 14, 2013, following the death of former Socialist Party President Hugo Chavez. Under Maduro, the Venezuelan government has abused the rights of the Venezuelan people through violence, control, repression, and by cracking down on public demonstrations.² Security forces have repressed opposition parties through detention, military prosecution, and the excessive use of force against protestors. Opponents and critics of the regime risk being detained, imprisoned, tortured, and assassinated. According to a 2019 United Nations Human Rights report, Venezuelan security forces killed at least 5,287 people during security operations in 2018, alleging “resistance to authority.”³ Between January 1 and May 19 of 2019, another 1,569 people were killed.

In addition to committing pervasive human rights abuses, Maduro’s regime has exploited the economy and engaged in widespread corruption.⁴ Despite having among the world’s largest oil reserves, millions of Venezuelans starve because the government fails to import sufficient food for the Venezuelan people, engages in rampant corruption of the food distribution program, and rejects offers of humanitarian aid.⁵ Maduro’s regime has been compared to a criminal organization;⁶ is involved in drug trafficking, money laundering,⁷ and illegal gold transfers;⁸ and is said to associate with terrorist groups.⁹ For years, Maduro’s inner circle has en-

¹ On March 17, 2021, the Committee approved S. 688, the BOLIVAR Act. That bill, as reported, is substantially similar to S. 257. Accordingly, this committee report is in many respects similar to the committee report for S. 688. See S. Rept 117–28.

² Human Rights Watch, *World Report 2017: Events of 2016*, 661–667 (www.hrw.org/sites/default/files/world_report_download/wr2017-web.pdf).

³ Press Release, Office of the High Commissioner, United Nations, *UN Human Rights Report on Venezuela Urges Immediate Measures to Halt and Remedy Grave Rights Violations* (July 4, 2019) (www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24788&LangID=E).

⁴ Fact Sheet, Office of the Spokesperson, U.S. Department of State, *Nicolás Maduro: Corruption and Chaos in Venezuela* (Aug. 6, 2019) (cl.usembassy.gov/nicolas-maduro-corruption-and-chaos-in-venezuela-2/).

⁵ *Id.*; see also, *The U.S. Says Maduro is Blocking Aid to Starving People. The Venezuelan Says His People Aren’t Beggars*, Washington Post (Feb. 8, 2019) (www.washingtonpost.com/world/2019/02/08/us-says-maduro-is-blocking-aid-starving-people-venezuelan-says-his-people-arent-beggars/).

⁶ *Study Finds Venezuela Criminal Enterprise is Blunting Effects of U.S. Sanctions*, Miami Herald (May 15, 2019) (www.miamiherald.com/news/nation-world/world/americas/venezuela/article230420019.html).

⁷ *U.S. Accuses Maduro, Venezuelan Party Official of Drug Trade Profiteering*, Reuters (May 18, 2018) (www.reuters.com/article/us-usa-venezuela-sanctions/u-s-accuses-maduro-venezuelan-party-official-of-drug-trade-profiteering-idUSKCN1J2JZ).

⁸ *These are the Refineries Processing Venezuela’s “Blood Gold”—and Helping Maduro Stay in Power*, Miami Herald (July 23, 2019) (www.miamiherald.com/news/nation-world/world/americas/venezuela/article232452267.html).

⁹ *Venezuela Is Terrorist Sanctuary: Colombian President*, U.S. News (July 29, 2019) (www.usnews.com/news/world/articles/2019-07-29/venezuela-is-terrorist-sanctuary-colombian-president).

riched itself by capitalizing on a network of corruption while his people struggle to survive.¹⁰

The United States has sanctioned entities affiliated with the Maduro regime, while allowing transactions with the legitimate Venezuelan government, the Interim President Juan Guaidó and the Venezuelan National Assembly.¹¹ Sanctions are enforced through the Office of Foreign Assets Control (OFAC) and State Department diplomatic actions.

The *BOLIVAR Act* complements existing efforts, such as sanctions, by prohibiting an executive agency from entering into a contract for the procurement of goods or services with any person that has business operations with the illegitimate government of the Maduro regime, as well as any successor governments not recognized as legitimate by the United States. The bill outlines particular exceptions. The *BOLIVAR Act* was first introduced by Senator Rick Scott in the 117th Congress. It passed the Senate by voice vote on December 15, 2022, but did not become law.¹²

III. LEGISLATIVE HISTORY

Senator Rick Scott (R–FL) introduced S. 257, the *BOLIVAR Act*, on February 2, 2023, with Senators Jacky Rosen (D–NV), Marco Rubio (R–FL), and Thom Tillis (R–NC) as original cosponsors. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 257 at a business meeting on March 29, 2023. During the business meeting, the bill was ordered reported favorably by roll call vote of 10 yeas and 1 nay, with Senators Peters, Hassan, Rosen, Padilla, Ossoff, Blumenthal, Lankford, Romney, Scott, and Hawley voting in the affirmative, and with Senator Paul voting in the negative. Senators Carper, Sinema, Johnson, and Marshall voted yea by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Banning Operations and Leases with the Illegitimate Venezuelan Authoritarian Regime Act,” or the “*BOLIVAR Act*.”

Section 2. Prohibition on contracting with persons that have business operations with the maduro regime

Subsection (a) prohibits federal agencies from contracting for goods and services with any person that knowingly engages in significant business operations with an authority of the Government of Venezuela that is not recognized as the legitimate Government of Venezuela by the United States.

¹⁰How Miami, a Major Destination for Venezuelan Gold, is Helping Prop up Maduro’s Regime, Miami Herald (July 23, 2019, updated Aug. 5, 2019) (www.miamiherald.com/news/nation-world/world/americas/venezuela/article230669164.html); see also, Nicolás Maduro: Corruption and Chaos in Venezuela, *supra* note 5.

¹¹Press Release, U.S. Department of the Treasury, *Treasury Sanctions Nicholas Maduro’s Son for Serving in Venezuela’s Illegitimate Government* (June 28, 2019) (home.treasury.gov/news/press-releases/sm719); see also, *Treasury Sanctions Maduro Regime Officials for Undermining Democratic Order in Venezuela* (Sept. 4, 2020) (home.treasury.gov/news/press-releases/sm1115).

¹²S. 688, 117th Cong. (2021).

Subsection (b) provides exceptions for instances where the Secretary of State determines that the business operations with the illegitimate Venezuelan government are necessary for the provision of humanitarian assistance, disaster relief, other urgent life-saving measures, noncombatant evacuations, or is otherwise in the national security interests of the United States. It requires that Congress be notified of any exception for those reasons. The Secretary of State must notify the appropriate congressional committees of any contract entered into on the basis of one of these exceptions.

Subsections (c) and (d) clarify the prohibition does not apply to contracts that support U.S. Government activities in Venezuela or to contracts with international organizations. It also does not apply to contracts related to the operation and maintenance of the U.S. Government's facilities in Venezuela.

Subsection (e) provides that the Secretary of State may waive the prohibition after determining it is in the national interest to do so.

Subsection (f) defines: "appropriate congressional committees," "business operations," "executive agency," "Government of Venezuela," and "person."

Finally, subsection (g) stipulates that this section applies to any contract entered into during the three-year period beginning on the date of enactment.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATES

S. 257, Banning Operations and Leases with the Illegitimate Venezuelan Authoritarian Regime Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 29, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	1	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 257 would prohibit executive branch agencies from entering into contracts with entities that have significant business operations with the Venezuelan government unless the United States recognizes that government as legitimate. The Secretary of State could waive that prohibition for contracts to provide humanitarian assistance, disaster relief, or that are in the national security interests of the United States.

CBO is not aware of any contracts that would be banned under the bill. CBO estimates monitoring contracting activity for compliance would cost the Department of State less than \$500,000 annually and total about \$1 million over the 2023–2028 period. Such spending would be subject to the availability of appropriated funds.

The CBO staff contacts for this estimate are Sunita D'Monte (for the Department of State) and Matthew Pickford (for general government). The estimate was reviewed by Chad Chirico, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Because S. 257 would not repeal or amend any provision of current law, it would make no changes in existing law within the meaning of clauses (a) and (b) of paragraph XXVI of the Standing Rules of the Senate.