

EXPLANATORY MEMORANDUM TO

THE EXPORT CONTROL (VENEZUELA SANCTIONS) ORDER 2018

2018 No. 108

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for International Trade and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 To provide for enforcement and penalties of European Union wide trade sanctions regimes against Venezuela.
- 2.2 The Export Control (Venezuela Sanctions) Order 2017 (the “Order”) provides for the enforcement of trade restrictions in view of the situation in Venezuela set out in Council Regulation (EU) No 2017/2063 of 13 November 2017 (OJ L 295, 14.11.2017, p.21) (the “Venezuela Sanctions Regulation”).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The Council of the European Union’s restrictive measures against Venezuela were adopted in the Venezuela Sanctions Regulation and followed Council Decision (CFSP) 2017/2074 of 13 November 2017 (OJ L 295/60 14.11.2017, p.60).
- 4.2 The Regulation reflects European Union concern at the continuing deterioration of democracy, the rule of law and human rights in Venezuela.
- 4.3 In May 2017 the Council of the EU adopted conclusions calling on Venezuelan politicians and institutions to work constructively towards a solution to the crisis in the country fully respecting the rule of law, human rights, democratic institutions and the separation of powers.
- 4.4 The EU has expressed support for the efforts in Venezuela to facilitate an urgent constructive dialogue, between the government and the parliamentary majority to create the conditions for peaceful solutions to the challenges the country faces.
- 4.5 The EU has encouraged the facilitation of external cooperation to address the urgent needs of the population and has committed to helping Venezuela find peaceful and democratic solutions, including through support for regional and international efforts to that end.

- 4.6 In July 2017, the EU expressed concern at numerous reports of human rights violations and excessive use of force. It called on the Venezuelan authorities to respect the Constitution, the rule of law and to ensure that fundamental rights and freedoms, including the right to peaceful demonstration, are guaranteed.
- 4.7 In August 2017, the EU expressed regret at the decision of the Venezuelan authorities to continue with the election of a Constituent Assembly, a decision that worsened the crisis in Venezuela. It risked undermining other legitimate institutions such as the National Assembly. The EU called on all parties to refrain from violence and on the authorities to ensure respect for all human rights, and expressed readiness to assist on all issues which could alleviate the situation of the Venezuelan people.
- 4.8 The EU indicated its readiness to gradually step up its response in case democratic principles were further undermined and the Constitution was not respected.
- 4.9 In view of the risk of further violence, excessive use of force and violations or abuses of human rights Council Decision (CFSP) 2017/2074 on 13 November 2017 considered it is appropriate to impose restrictive measures including: an arms embargo, specific measures to restrict equipment that might be used for internal repression, and to preventing the misuse of communication equipment.
- 4.10 Measures provided for in Council Decision (CFSP) 2017/2074 that fall within scope of the Treaty were adopted as Council Regulation (EU) 2017/2063 on 13 November 2017. The Regulation has direct effect in the UK. The UK has an obligation to establish an enforcement regime through an Order which creates offences for the behaviour prohibited by the Regulation and penalties for those offences.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the whole of the United Kingdom.
- 5.2 The territorial application of this instrument is the whole of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 In view of the risk of further violence, excessive use of force and violations or abuses of human rights, Council Decision of 13 November 2017 considered it is appropriate to impose restrictive measures including:
- an arms embargo including the prohibition of technical assistance, financing or financial assistance, brokering services, grants, loans and export credit insurance, insurance and reinsurance and other services related to technology listed in the Common Military List;
 - specific measures to restrict equipment that might be used for internal repression, such as firearms not controlled by the Common Military List, a variety of vehicles including those equipped with water cannon, night vision and thermal imaging equipment and razor wire; and

- preventing the misuse of communications by prohibiting the sale, supply, transfer of technology or software such as deep packet inspection, radio frequency monitoring, or network and satellite jamming equipment.

Consolidation

7.2 None.

8. Consultation outcome

8.1 The Order provides for the technical implementation of a directly applicable EU Regulation. No consultation was necessary.

9. Guidance

9.1 A Notice to Exporters has been published on 13 November 2017 <https://www.gov.uk/government/publications/notice-to-exporters-201725-new-eu-sanctions-against-venezuela/notice-to-exporters-201725-new-eu-sanctions-against-venezuela> explaining the imposition of new European Union sanctions against Venezuela.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal. Venezuela is not a major trading partner of the United Kingdom. This new sanctions regime will have a small impact on UK business limiting opportunities by, for the first time, introducing an EU sanctions regime for a country in the Americas <https://www.sanctionsmap.eu/>. There may be a similar small impact on charities or voluntary bodies. Business must apply for authorisation (an export licence) for the provision of the activities referred to in 7.1 above.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 To minimise the impact of the requirements on small businesses the Order provides for enforcement and penalties of EU trade sanctions regulations. The penalties are only applied if a business commits an offence by deliberately breaching sanctions.

12. Monitoring & review

12.1 The Department will monitor developments in Venezuela, the actions taken by the EU, and the impact of the Order and give effect to any necessary changes if the sanctions are reviewed.

12.2 The impact of the order is required to be reviewed in five years from the date on which it comes into force.

13. Contact

13.1 Peter Monday at the Department for International Trade, Tel: 020 7215 8810 or email: peter.monday@trade.gsi.gov.uk can answer any queries regarding the instrument.