

## THE VENEZUELA (SANCTIONS) (EU EXIT) REGULATIONS 2019

### REPORT UNDER SECTION 2(4) OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

#### INTRODUCTION

1. This is a report under section 2(4) of the Sanctions and Anti-Money Laundering Act 2018 (“**the Act**”) in relation to the Venezuela (Sanctions) (EU Exit) Regulations 2019. Section 2(4) requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 considers that the purposes of the regulations meet one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Act;<sup>1</sup> why the Minister considers that there are good reasons to pursue that purpose; and why the Minister considers that the imposition of sanctions is a reasonable course of action for that purpose.
2. Sanctions will continue to contribute to the UK’s efforts to “defend the rules-based international order”. The UK will continue to be a global leader on sanctions, based on the smart, targeted use of sanctions, as part of wider political and diplomatic strategies. The UK will enhance its leadership role in developing robust evidence to support sanctions regimes and designations – for national and multilateral sanctions. At the international level, the UK will continue to seek multilateral cooperation on sanctions in response to shared threats, given that a collective approach to sanctions achieves the greatest impact.
3. The Act allows the UK to take a range of actions against those suspected of gross human rights violations, or otherwise promote compliance with international humanitarian rights law or respect for human rights.
4. There is an existing EU Venezuela sanctions regime, which was established in 2017 in response to the continuing deterioration of democracy, the rule of law and human rights in Venezuela. The preambular language in the EU Council Decision (No. 2017/2074) underlined, in particular, concern at numerous reports of human rights violations and excessive use of force, and the lack of respect for the Constitution of Venezuela. The purpose of that sanctions regime was to target individuals complicit in or responsible for serious human rights abuses, and undermining democracy and the rule of law in Venezuela.
5. The UK played a significant role in the development of the EU sanctions regime, along with members of the Venezuela Core Group<sup>1</sup>. Bringing these existing EU sanctions into UK law is consistent with UK policy on Venezuela. The Venezuela (Sanctions) (EU Exit) Regulations 2019 (“**the Regulations**”) are intended to substantially deliver the same policy effects as the existing EU sanctions regime.

#### Purposes and reasons for pursuing the purposes

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<sup>1</sup> An informal group within the EU (UK, Spain, Germany, Italy, France and the Netherlands).

6. The Regulations impose sanctions on Venezuela and they confer a power on the Secretary of State to designate persons who have been involved in actions which undermine democracy or the rule of law in Venezuela, and who have been involved in repressing the civilian population of Venezuela or in the commission of serious human rights violations or abuses in Venezuela. The sanctions measures in these Regulations consist of an asset freeze and travel ban as well as trade restrictions on specified goods and technology, such as military goods (e.g. arms) or goods and technology which may be used to repress the civilian population of Venezuela or to intercept and monitor communications. Further trade restrictions imposed by these Regulations relate to the provision of interception and monitoring services to, or for the benefit of, certain persons connected with Venezuela and military-related services to or for the benefit of the National Bolivarian Armed Forces of Venezuela.
7. The purposes of the sanctions regime, as set out in regulation 4 of the Regulations, are to encourage the Government of Venezuela to—
  - a) respect democratic principles and institutions, the separation of powers and the rule of law in Venezuela;
  - b) refrain from actions, policies or activities which repress civil society in Venezuela;
  - c) participate in negotiations with its political opponents in good faith to bring about a peaceful solution to the political crisis in Venezuela;
  - d) comply with international human rights law and to respect human rights, including in particular to—
    - i) respect the right to life of persons in Venezuela,
    - ii) respect the right of persons not to be subjected to torture or cruel, inhuman or degrading treatment or punishment in Venezuela, including inhuman and degrading conditions in prisons,
    - iii) respect the right to liberty and security, including refraining from the arbitrary arrest and detention of persons in Venezuela,
    - iv) afford persons in Venezuela charged with criminal offences the right to a fair trial
    - v) afford journalists, human rights defenders and other persons in Venezuela the right to freedom of expression and peaceful assembly, and
    - vi) secure the human rights of persons in Venezuela without discrimination, including on the basis of a person's sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
8. Carrying out these purposes meets one or more of the conditions set out in section 1(2) of the Act. In particular, carrying out these purposes would fall within paragraph (2)(f) and (i), in that it would promote compliance with international human rights law and respect for human rights, and respect for democracy, the rule of law and good governance. The Government of Venezuela continues to subvert democracy and the rule of law and to violate its international human rights obligations, and the UK is at the forefront of international efforts to incentivise the Venezuelan Government to change. The UK does this by applying pressure on those responsible for serious human rights violations and/or responsible for undermining democracy and the rule of law. Sanctions are a useful tool to encourage the Venezuelan Government to negotiate with the Venezuelan opposition in good faith.

9. There are good reasons for pursuing these purposes, namely to address the deterioration of democracy, the rule of law and human rights in Venezuela. The situation remains of serious concern to both the UK and the international community, as evidenced in various reports produced by the Organisation for American States (OAS)<sup>2</sup>. The reports consistently document the illegitimacy of the Constituent Assembly and the role of the Venezuelan Government in undermining democratic processes and the rule of law. OAS statements have accused the Venezuelan Government of ‘altering constitutional order’. The reports also detail the commission of serious human rights violations or abuses, and the repression of civil society and democratic opposition in Venezuela – specifically brutal treatment of protestors and opposition leaders. The UK shares concerns over these same issues.
10. There is concern that the Government of Venezuela frequently violates the Constitution of Venezuela, which has a detrimental effect on the rights of Venezuelan people, undermines democracy and is leading to further polarisation. Venezuelans can be subject to arbitrary detention, detention without trial, and/or torture. According to OAS reporting, protests have been banned on occasion and government law enforcement units have responded violently to demonstrations by thousands of opposition supporters.
11. The international community has legitimate concerns that the Government of Venezuela is no longer accountable to its citizens. Dialogue with the Venezuelan opposition is not meaningful and the Government often represses opposition leaders. The Venezuelan Supreme Court is no longer independent, but is controlled by the Venezuelan Government.

#### **Why sanctions are a reasonable course of action**

12. The imposition of prohibitions and requirements of the kind imposed by these Regulations is a reasonable course of action for the purpose of encouraging the Government of Venezuela to respect democratic principles, comply with international human rights law and to respect human rights.
13. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. The UK believes sanctions can be an effective and reasonable foreign policy tool if they are one part of a broader foreign policy strategy for a country or thematic issue, and are appropriate to the purposes they are intending to achieve.
14. The gravity of the political crisis in Venezuela means that putting sanctions in place is a reasonable measure to take. For example, elections for the Constituent Assembly held in July 2017 were deemed to be fraudulent, and the Constituent Assembly’s subsequent illegitimate actions have led to intense opposition and violent protests. Targeted sanctions against those responsible for undermining democracy and the rule of law are deemed to be a reasonable measure to take in response to these events. There is evidence that sanctions have caused regime figures to change their travel plans. Beyond this, it is too early to judge if sanctions are changing

specific behaviours and actions of the Venezuelan Government, but there is anecdotal evidence that measures are adding to the sense of pressure on the government by the international community. Sanctions are one part of the sustained international pressure on the issue.

15. There are three principal kinds of prohibition in the Regulations: those relating to financial sanctions, those relating to immigration sanctions, and those relating to trade sanctions.

a. Financial and immigration sanctions. These restrictions consist of an asset freeze (including a restriction on providing funds and economic resources) and a travel ban. Restrictions can only be imposed upon specified individuals and entities who meet the criteria set out in the Regulations, namely that there are reasonable grounds to suspect that the person is, or has been, involved in the commission of a serious human rights violation or abuse in Venezuela; or, the repression of civil society and democratic opposition in Venezuela, or other actions, policies or activities which undermine democracy or the rule of law in Venezuela; and that their designation is appropriate having regard to the purposes of the regime and the likely significant effects of the designation on that person. Sanctions are targeted at those who abuse human rights or who fail to respect democratic principles or the rule of law, and therefore fulfil the stated purpose of the regime. The intention is to apply pressure in order that the Government of Venezuela changes its behaviour – abandoning actions, policies or activities that repress civil society, and participating in credible, meaningful negotiations with its political opponents to bring about a peaceful solution to the political crisis in Venezuela. The sanctions regime also sends a strong message of disapproval of human rights abuses and violations of democratic principles. Current evidence suggests that the repression of civil society, subversion of democracy and the rule of law and serious human rights violations in Venezuela are committed largely by senior officials from the Government of Venezuela, or by others working in concert with the Government of Venezuela. Applying targeted restrictions is intended to both directly and indirectly bring about behaviour change in the Government of Venezuela. The Regulations allow for exceptions to the travel ban and also provide for the financial sanctions to be subject to certain exceptions and a licensing framework. The exceptions and licensing provisions support the reasonableness of imposing these sanctions measures on designated persons, as they mitigate any possible negative or counter-productive impacts.

b. Trade sanctions. The Regulations contain restrictions on the trade of restricted goods and technology, namely military goods or technology (e.g. arms) and other goods or technology that may be used to repress the civilian population in Venezuela or to intercept and monitor communications. It also imposes prohibitions on the provision of interception and monitoring services to or for the benefit of certain persons connected with Venezuela and on the provision of military-related services to or for the benefit of the National Bolivarian Armed Forces of Venezuela. The effect of these sanctions is to directly constrain potential human rights violations and abuses, therefore fulfilling the stated purposes of this regime. For example by preventing violations to the rights of citizens and rights of the opposition through restricting access to goods or technology that could be used by the Government of Venezuela to repress civil society. The trade measures in the Regulations are targeted and provide for the trade sanctions to be subject to a licensing framework that will be overseen by the Department for

International Trade. The power to grant licences under this regime supports the reasonableness of imposing these sanctions measures, as it will mitigate any unintended negative consequences.

16. These sanctions are not an end in themselves. They are one element of a broader strategy to achieve the UK's foreign policy goals in Venezuela. Sanctions operate alongside diplomatic efforts to encourage the Venezuelan Government to engage in meaningful dialogue with the Opposition and to cease the commission of human rights abuses. Previous diplomatic efforts have been so far unsuccessful in isolation and the UK is therefore combining sanctions with lobbying through international frameworks and will continue to work with partners including the EU, USA, Canada and the Lima Group<sup>3</sup> (an organisation of countries committed to ending the crisis in Venezuela).
17. The policy intention is to keep the sanctions on Venezuela in place until the UK Government is assured that the Government of Venezuela has engaged in credible negotiations with the Opposition. This position may be reached by evidence of some concrete steps having been taken that show an improvement in the areas of concern outlined in the purposes of these Regulations, or via independent reporting on the status of dialogue between the Venezuelan Government and the Venezuelan opposition. The UK will continue to coordinate with international partners, including on the future of the sanctions regime.
18. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information, the reporting of information by relevant firms, and the holding of records. These kinds of prohibitions and requirements ensure that certain information is appropriately held by those involved with the operation of the sanctions regime, and that certain information is provided to authorities, and ensure that certain sensitive information is treated securely. These kinds of prohibitions and requirements enable the government to properly operate and enforce the sanctions regime, and therefore their imposition is also considered a reasonable course of action for the purposes of the Regulations.

### **Conclusions**

19. The purposes of these Regulations are to encourage the Government of Venezuela to respect democratic principles and the rule of law, to comply with international human rights law and to respect human rights. For the reasons set out in this report, carrying out those purposes meets one of the conditions in section 1(2) of the Act. As set out in this report, there are good reasons for pursuing those purposes, and the imposition of the kinds of prohibitions and requirements imposed by these Regulations for those purposes is a reasonable course of action for those purposes.

**The Rt Hon Sir Alan Duncan KCMG**

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<sup>3</sup> Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Guyana, Honduras, Panama, Paraguay, Peru and Saint Lucia, and Mexico.

**Minister of State for Europe and the Americas, Foreign and Commonwealth Office, on behalf of  
the Secretary of State for Foreign and Commonwealth Affairs**

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<sup>i</sup> Section 1(2) states:

*“A purpose is within this subsection if the appropriate Minister making the regulations considers that carrying out that purpose would –*

- a) further the prevention of terrorism, in the United Kingdom or elsewhere,*
- b) be in the interests of national security,*
- c) be in the interests of international peace and security,*
- d) further a foreign policy objective of the government of the United Kingdom,*
- e) promote the resolution of armed conflicts or the protection of civilians in conflict zones,*
- f) provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote -*
  - (i) compliance with international human rights law, or*
  - (ii) respect for human rights,*
- g) promote compliance with international humanitarian law,*
- h) contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or*
- i) promote respect for democracy, the rules of law and good governance.”*