

117TH CONGRESS }
1st Session }

SENATE

{ REPORT
117-28

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. 688

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



JULY 12, 2021.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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JULY 12, 2021.—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. 688]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 688) 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. 688, 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 THE NEED FOR 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.³ Opponents and critics of the regime risk being detained, imprisoned, tortured, and assassinated.⁴ 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.” Between January 1 and May 19 of 2019, another 1,569 people were killed.⁵

In addition to committing pervasive human rights abuses, Maduro’s regime has exploited the economy and engaged in widespread corruption.⁶ 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.⁷ Maduro’s regime has been compared to a criminal organization;⁸ is involved in drug trafficking, money laundering,⁹ and illegal gold transfers;¹⁰ and is said to associate with terrorist groups.¹¹ For years, Maduro’s inner circle has en-

¹ On June 19, 2019, the Committee approved S. 1151, the Venezuelan Contracting Restriction Act, which is substantially similar to S. 688. Accordingly, this Committee report is in large part a reproduction of the Committee report for S. 1151, S. Rep. No. 116–85.

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

³ *Id.*

⁴ *Id.*

⁵ 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) (<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24788&LangID=E>).

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

⁷ *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) (<https://www.washingtonpost.com/world/2019/02/08/us-says-maduro-is-blocking-aid-starving-people-venezuelan-says-his-people-arent-beggars/>).

⁸ *Study Finds Venezuela Criminal Enterprise is Blunting Effects of U.S. Sanctions*, Miami Herald (May 15, 2019) (<https://www.miamiherald.com/news/nation-world/world/americas/venezuela/article230420019.html>).

⁹ *U.S. Accuses Maduro, Venezuelan Party Official of Drug Trade Profiteering*, Reuters (May 18, 2018) (<https://www.reuters.com/article/us-usa-venezuela-sanctions/u-s-accuses-maduro-venezuelan-party-official-of-drug-trade-profiteering-idUSKCN1LJ2JZ>).

¹⁰ *These are the Refineries Processing Venezuela’s “Blood Gold”—and Helping Maduro Stay in Power*, Miami Herald (July 23, 2019) (<https://www.miamiherald.com/news/nation-world/world/americas/venezuela/article232452267.html>).

¹¹ *Venezuela Is Terrorist Sanctuary: Colombian President*, U.S. News (July 29, 2019) (<https://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.¹²

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.¹³ Sanctions are enforced through the Office of Foreign Assets Control (OFAC) and State Department diplomatic actions. However, U.S. dollars continue to flow to Maduro despite OFAC restrictions. One factor is that current law does not prevent U.S. contractors from doing business with Maduro while also contracting with the U.S. Government unless they are businesses specifically identified by OFAC as prohibited from doing so.

The BOLIVAR Act closes this loophole. It 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.

III. LEGISLATIVE HISTORY

S. 688 was introduced on March 10, 2021, by Senators Rick Scott (R-FL), Marco Rubio (R-FL), Thom Tillis (R-NC), and Jacky Rosen (D-NV).

The bill was referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered S. 688 at a business meeting on March 17, 2021. S. 688 passed by voice vote *en bloc* with Senators Peters, Rosen, Padilla, Portman, Johnson, Lankford, Romney, Scott, and Hawley present.

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

This section 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. This prohibition does not apply to contracts that support U.S. 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.

¹² *How Miami, a Major Destination for Venezuelan Gold, is Helping Prop up Maduro's Regime*, Miami Herald (July 23, 2019, updated August 5, 2019) (<https://www.miamiherald.com/news/nation-world/world/americas/venezuela/article230669164.html>); *see also*, Nicolás Maduro: *Corruption and Chaos in Venezuela*, *supra* note 5.

¹³ Press Release, U.S. Department of the Treasury, *Treasury Sanctions Nicholas Maduro's Son for Serving in Venezuela's Illegitimate Government* (June 28, 2019) (<https://home.treasury.gov/news/press-releases/sm719>); *see also*, *Treasury Sanctions Maduro Regime Officials for Undermining Democratic Order in Venezuela* (September 4, 2020) (<https://home.treasury.gov/news/press-releases/sm1115>).

This section 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. It requires that Congress be notified of any exception for those reasons.

Finally, the bill provides that the Secretary of State may waive the prohibition after determining it is in the national interest to do so.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 23, 2021.

Hon. GARY C. PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 688, the BOLIVAR Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 688, BOLIVAR Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 17, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
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
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 688 would generally prohibit any executive agency from entering into a contract with any person that has business operations with any authority of the Venezuelan government that is not recognized as the legitimate government by the United States. That prohibition could be waived for certain contracts, such as those determined by the Secretary of State to be in the national security interests of the United States.

CBO is unaware of any contracts that executive agencies have with entities associated with the Venezuelan government. However, CBO estimates that the costs for the Department of State to discover and monitor any future contracts would be less than \$500,000 annually and total about \$1 million over the 2021–2026 period. Such spending would be subject to the availability of appropriated funds.

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

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

Because S. 688 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.