

Written Testimony of the Acting Director of the U.S. Department of the Treasury's Office of Foreign Assets Control, John E. Smith, Before the Western Hemisphere Affairs Subcommittee of the Senate Committee on Foreign Relations

March 17, 2015

Venezuela Sanctions Program

Chairman Rubio, Ranking Member Boxer, distinguished members of the committee, thank you for the invitation to appear before you today at this important hearing on political and economic developments in Venezuela, the human rights situation in the country, and the implications of these topics for regional stability and U.S. interests. As the Acting Director of the Treasury Department's Office of Foreign Assets Control (OFAC), I will address the Administration's implementation of the sanctions measures in the Venezuela Defense of Human Rights and Civil Society Act of 2014 (the Act), which was signed into law on December 18, 2014.

Executive Order 13692

On March 9, the President issued Executive Order 13692 declaring a national emergency with respect to the situation in Venezuela, which is a prerequisite for the imposition of economic sanctions under the International Emergency Economic Powers Act (IEEPA). The Executive Order, which implements the targeted sanctions contained in the Act and builds on them in key respects, imposes economic sanctions on persons listed in an Annex to the Order and any persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have engaged in or to have been responsible for certain enumerated activities in relation to Venezuela such as undermining democratic processes or institutions, committing serious abuses or violations of human rights, limiting or penalizing the exercise of freedom of expression or peaceful assembly, or being involved in public corruption by senior Venezuelan government

officials. The Executive Order also contains a “status-based” authority targeting current and former officials of the Government of Venezuela, which gives the Secretary of the Treasury additional flexibility to go after targets of concern for which there may be limitations on our ability to designate under the other “conduct-based” authorities. The President named seven Venezuelan individuals in the Annex to the Order. The property and interests in property of these individuals are blocked, meaning their assets within U.S. jurisdiction are frozen, and U.S. persons are prohibited from engaging in any transactions or dealings with them. The Executive Order also suspends the entry into the United States of individuals who are determined to meet the criteria for economic sanctions.

Last week’s action imposing sanctions on seven individuals focused on those involved in human rights abuses and the persecution of political opponents connected to the events surrounding the February 2014 protests highlighted in the Act. Most of the individuals targeted are currently or were formerly associated with Venezuela’s national guard, the armed forces, the intelligence service, or the national police, members of which played key roles in repression against individuals involved in the protests beginning in February 2014. The Executive Order also targeted a national level prosecutor who has charged – based in part on implausible and/or fabricated information – several opposition members with conspiring to assassinate or overthrow President Maduro. Mr. Chairman, I want to acknowledge the leadership you have demonstrated on this issue, and I would note that six of the seven targets in the Annex to the Executive Order were included in your list of individuals published in May of last year.

In addition to implementing the Act, the Order expands the designation criteria beyond the requirements of the Act. This will allow for greater targeting flexibility and the highlighting, targeting, and deterrence of additional problematic behavior that is ongoing in Venezuela. We remain committed to defending human rights, advancing democratic governance in Venezuela, and protecting the U.S. financial system from abuse.

Building on the Legislation

While the Act focuses on human rights abuses specifically related to last year's protests, the Executive Order expands our targeting authority to more broadly cover any significant acts of violence or serious violations of human rights in relation to Venezuela, and restrictions on the exercise of freedom of expression or peaceful assembly in Venezuela, allowing us to deter and address repression as it may arise. The Order also includes designation criteria related to the undermining of democracy in Venezuela and to public corruption by senior Venezuelan government officials. Finally, the E.O. gives us the discretionary authority to designate current or former Venezuelan government officials. As we have learned from experience across a number of sanctions programs, this type of "status-based" authority is a useful tool that allows us to go after targets of concern for which there may be limitations to our ability to designate under "conduct-based" authorities.

To be clear, these sanctions are not aimed against the country of Venezuela. They do not target the Venezuelan people or the economy, nor do they sanction the Venezuelan government as a whole. To the contrary, this remains a targeted sanctions program focused tightly and precisely on bad actors undermining Venezuela's democracy, violating and abusing the human rights of its

citizens, and diverting much-needed economic resources for personal gain – resources that could and should be invested for the public good.

Public Corruption

Turning specifically to this sanctions program’s focus on public corruption in Venezuela, I would echo President Obama, who has said that fighting corruption is one of the great struggles of our time. Corruption, beyond its unethical nature, siphons off important resources that could be used to feed children or build schools and infrastructure that promote development.

As the largest economy in the world, we remain Venezuela’s primary trading partner and maintain financial ties to Venezuela. These relationships, while a natural outcome of our longstanding economic engagement with the region, also potentially expose our financial system to illicit financial flows from public corruption in Venezuela, as Venezuelan government officials who control access to scarce U.S. dollars attempt to take advantage to reap illicit gains. This close interaction with the U.S. financial system, however, also gives us leverage from a sanctions perspective. Venezuela’s heavy use of the U.S. dollar and Venezuelans’ frequent travel to the United States make targets of our sanctions vulnerable. We expect our designations will have bite.

In addition, Treasury is using the full range of its financial tools to address the exploitation of the U.S. financial system in furtherance of corruption schemes. Last week, for example, the Financial Crimes Enforcement Network (FinCEN) of the Department of the Treasury issued a public notice of finding that Banca Privada d’Andorra (BPA) is a financial institution operating

outside of the United States that is of a “primary money laundering concern.” The finding that accompanied this notice outlined how a third-party money launderer in Venezuela worked with BPA to deposit the proceeds of public corruption, some of which transited the U.S. financial system, into an account at BPA. This network was well connected to Venezuelan government officials and facilitated the movement of at least \$50 million through the United States from 2011 to 2013 in support of this money laundering network.

Narcotics, Terrorism, and Iran

It is also worth noting the long history of the application of U.S. sanctions to foreign policy and national security concerns with a Venezuela nexus. Even before the past year’s events, we have not hesitated to designate Venezuelan banks and other companies for their connections with Iranian entities sanctioned for nuclear proliferation activities pursuant to our counter-proliferation authorities. These actions included the designation of the International Development Bank in Caracas, a subsidiary of the Tehran-based Export Development Bank of Iran.

Our actions to combat narcotics trafficking in Latin America pursuant to the Foreign Narcotics Kingpin Designation Act have proceeded to a steady drumbeat, and they have not overlooked Venezuelan targets. For example, in September 2011, OFAC designated four Venezuelan government officials for acting for or on behalf of the FARC, a designated narco-terrorist organization. The four officials acted in direct support of the FARC’s narcotics and arms trafficking activities in Venezuela. In September 2012, shortly after his arrest in Panama, OFAC designated a Venezuelan narcotics trafficker and his company. The trafficker was previously

indicted in the Southern District of Florida on cocaine trafficking charges. And in August 2013, OFAC designated a former Venezuelan National Guard captain as a significant foreign narcotics trafficker. The captain had previously been indicted in the Eastern District of New York in March 2011 on multiple cocaine trafficking charges. He facilitated cocaine loads from Colombia through Venezuela in partnership with well-known narcotics traffickers in Colombia and Mexico.

We have also acted to constrain Lebanese Hizballah activity in Venezuela, designating in 2008 Hizballah supporters and fundraisers active in Venezuela pursuant to our counter-terrorism sanctions authorities. One of the targets was a senior Venezuelan diplomat who had facilitated the travel of Hizballah members to and from Venezuela.

Conclusion

Before I conclude these remarks, I want to emphasize that we retain the ability to respond to events in Venezuela as they unfold. We stand ready with a powerful financial tool to deter abuses and target those who may choose to undermine democratic processes or institutions. In concert with this Congress, we have made clear that the United States will not stand idly by and witness the repression that has occurred in Venezuela this past year. We have demonstrated in numerous and diverse scenarios across the globe that the United States has the ability to target those involved in human rights abuses and the undermining of democracy and to prevent them from accessing the United States financial system. And when we do so, they will find themselves isolated domestically, regionally, and globally. Thank you.