

International Trade Alert

December 18, 2014

Obama to Sign Venezuela Sanctions Bill

Last week, the U.S. Congress passed S. 2142 (the “Venezuela Defense of Human Rights and Civil Society Act of 2014”) and presented the legislation to President Obama for signature. White House officials have indicated that President Obama plans to sign the bill into law.

The stated impetus of the legislation is to respond to reported acts of violence committed by members of Venezuela’s state security forces and intelligence services, and the use of Venezuela’s judicial system for the political persecution of members of the country’s civilian population. While the scope of the bill narrowly focuses on individuals targeted for sanctions in connection with their involvement in such abuses, U.S. businesses have raised concerns that the legislation could provide an incremental step towards broader sanctions against the Venezuelan economy, including the country’s oil industry. The bill directs the President to impose sanctions against any person, including any current or former official of the government of Venezuela or person acting on behalf of that government, who is determined to have:

- perpetrated, or is responsible for ordering or otherwise directing, significant acts of violence or serious human rights abuses in Venezuela against persons associated with the anti-government protests in Venezuela that began on February 4, 2014;
- ordered or otherwise directed the arrest or prosecution of a person in Venezuela primarily because of the person’s legitimate exercise of freedom of expression or assembly; or
- knowingly materially assisted, sponsored or provided significant financial, material or technological support for, or goods or services in support of, the commission of such acts.

Potential sanctions to be imposed against such persons include:

- **Asset Blocking** - The President may block and prohibit all transactions in property and interests in property of any sanctioned person if such property and property interests are in the United States, come within the United States or are or come within the possession or control of a United States person; and/or
- **Visa Ban** - The President may also deny or revoke a visa for any sanctioned individual and otherwise exclude such individuals from the United States.

However, the legislation states that the asset blocking sanctions may not be imposed on the importation of goods.

As noted above, the potential basis for imposition of these sanctions and the corresponding sanctions are currently narrow and limited to individual Venezuelan officials found to have engaged in abuses targeted by the sanctions legislation. Consistent with other sanctions regimes, the President's authority to impose asset blocking sanctions pursuant to this legislation is based on the International Emergency Economic Powers Act. A person designated by the President as subject to these sanctions will be included in the Office of Foreign Asset Control's list of Specially Designated Nationals and Blocked Persons ("SDN List"). As a result, U.S. persons will be prohibited from dealing with that SDN wherever the SDN is located, and all SDN assets are blocked. Importantly, entities that a person on the SDN List owns (defined as a direct or indirect ownership interest of 50 percent or more) are also blocked, regardless of whether that entity is separately named on the SDN List.

Accordingly, to ensure compliance, companies will need to implement enhanced compliance screening and diligence on business partners and counterparties associated with Venezuela to establish a basis to safeguard compliance with this new sanctions regime once it is enacted and implemented by the Obama Administration. It is impossible to predict how this new sanctions program may evolve or expand over time. However, the enactment of this law significantly escalates business risks that companies with commercial interests in Venezuela must now consider, manage and address in their compliance programs and practices.

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