

## What it Means if the United States Designates Venezuela a State Sponsor of Terrorism

*November 20, 2018*

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### BACKGROUND

Press reports indicate that the Trump Administration is considering designating Venezuela, a large supplier of oil to the United States, as a State Sponsor of Terrorism (SST). Though reports are unclear as to what the precise rationale would be, it is likely that the State Department would focus on Venezuela's past activities in support of the FARC in Colombia and rumors of cooperation with the Iranian Revolutionary Guard Corps (IRGC), Hezbollah, and Hamas. These latter reports have long animated people on the conservative side of the U.S. national security spectrum, though U.S. government reports on the subject have often underscored the degree to which such links are limited and of marginal utility to all concerned.

The Trump Administration may also say that the Venezuelan government is terrorizing the nation's population that it is a negative influence on the region, and warn of its possible future involvement in bad acts. However, none of these are rationales imagined in the underlying statutes that support an SST designation and its related sanctions. Per Section 620A of the Foreign Assistance Act (one of three statutes that are implicated in an SST determination, the others being the Arms Export Control Act and the Export Administration Act), such a designation can only be made if the Secretary of State determines that a state has "repeatedly provided support for acts of international terrorism." Factors that usually go into this decision include the degree to which this support is witting and intentional, the frequency of the support, and its value to the terrorist operations that have flowed from it. For this reason, though many countries may have facilitated terrorism or failed to stop it, the United States only has four states presently designated as SSTs: Iran, North Korea, Sudan and Syria.

### DESIGNATION IMPACT

Regardless of whether it makes sense to designate Venezuela, if the United States chooses to do so, there will be sanctions ramifications. However, these are unlikely to touch the OPEC nation's oil and gas sector in any direct way. As the [State Department describes](#) them, the sanctions covered by SST-related legislation are:



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- A ban on arms-related exports and sales;
- Controls over exports of dual-use items, requiring 30-day Congressional notification for goods or services that could significantly enhance the terrorist-list country's military capability or ability to support terrorism;
- Prohibitions on economic assistance; and
- Imposition of miscellaneous financial and other restrictions.

None of these sanctions would preclude, for example, buying Venezuelan oil or exporting to Venezuela the various chemicals and feedstock oil that it uses in its production activities. Nor would these sanctions prohibit as an absolute matter investment in or transactions with Venezuela. It is worth recalling that the United States had designated Iran as an SST in 1984. Eleven years later, the United States had to impose its comprehensive embargo against Iran in order to preclude business activities with the country not directly affected by the SST designation.

In fact, the possibility of an SST determination is more suggestive of a strong desire on the part of the United States to find things that it can throw at Venezuela while still avoiding such sanctions that would negatively affect U.S. refineries along the U.S. Gulf Coast that process its oil or give rise to the argument that Venezuela's crisis was one of U.S. making. In this, the Trump Administration has been consistent since taking office, through the tenures of Rex Tillerson and Mike Pompeo at the State Department, and despite the tough talk emanating from Washington. One can see in a similar vein the decision to impose targeted sanctions against Venezuelan officials involved in gold or drug smuggling and corruption. All of these activities may be merited on their own basis, but – in many respects – they demonstrate a real attempt to avoid touching an area of sanctions policy that the president could target quite easily with an executive order under existing statutory authorities.

That is not to say that this decision, if undertaken, might not have a chilling effect on business with Venezuela. Some companies may decide that this is the last straw and elect to withdraw from the country. Others, who have yet to be deterred despite the brutality of the Maduro government and the significant damage inflicted on the Venezuelan people, may decide instead to stay in Venezuela for as long as legally possible to generate what profits they can or perhaps to minimize the costs of leaving. Still others (particularly in China and Russia) may decide that this is an opportunity to ensure that Venezuela's government, desperate for international support, remains cooperative and pliant.

As a means of bringing real change to Venezuela, however, the decision to designate it as an SST is not likely to be effective, especially if it is made on the basis of the limited evidence demonstrated to date.

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The views in this commentary represent those of the author.

This work was made possible by support from the Center on Global Energy Policy. More information is available at <http://energypolicy.columbia.edu/about/mission>.