

EVERYTHING IS FOR OIL

The Economic Blockade to the Venezuelan
Oil Industry and its Impact on
Human Rights

Luis Navas Mora

Sures
ESTUDIOS y DEFENSA en **DERECHOS HUMANOS**



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The Historical Time series is an emancipatory study and analysis designed to systematize global, regional, national and local historical processes that take place in the unprecedented changing time of human rights. Driven, particularly, by a social need to deepen socio-political future of people subject to a globalized system.



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PRESENTATION

Over a hundred years ago, the Venezuelan economy experienced a transformation, shifting from agricultural production to an oil large-scale exploitation. It was in 1926, when revenues from crude oil exploitation exceeded the income from coffee. Since then the economy changed in its entirety.

In 1976, with the oil industry nationalization, *Petróleos de Venezuela Sociedad Anónima (PDVSA)* was founded as a State-owned Company concentrating the oil activity in the country. Thereafter, the State became the main exporter of goods, as well as the main source of foreign currency income and responsible for the distribution of wealthfare.

In this regard, revenue from the sale of crude oil has represented more than 95% of the country's income. In addition, to hold the greater part of foreign investment, through the creation of joint ventures between PDVSA and international oil companies.

Likewise, Venezuela with more than 300 billion barrels has the largest oil reserves in the world. A significant portion of these reserves corresponds to heavy and extra heavy crude, with high operating costs and requiring additional imported goods and infrastructure for its transformation.

Therefore, the blockade impose by the US, entails enormous difficulties for PDVSA, particularly since the Venezuelan oil industry emerged and developed from the commercial relationship with the US. Moreover, the appropriate facilities for processing Venezuelan crudes are located in that country.

Additionally to this circumstance and given the great influence that US government has over the financial system, these unilateral coercive measures also affects the commercial relations with Venezuela and the rest of the world.

Unilateral Coercive Measures against the Venezuelan Oil Industry

Since December 2014, and with greater rigor after August 2017 when the National Constituent Assembly elections took place, the US government has been promoting unilateral coercive measures against the Venezuelan oil industry. These measures could resume in:

1. Prohibition to its citizens or companies with offices or properties in US jurisdiction to carry out any commercial operation with PDVSA, including those related to its debt.
2. Sanction or threat of sanctions to financial entities that mediate transactions related to PDVSA.
3. Sanction to companies that cooperate with PDVSA in operations of the industry, whether they are crude oil transportation companies, suppliers of any type of inputs or services, and so on.

The difficulties and setbacks that the national oil industry has suffered by actions taken by third countries or companies that fear for their interests if they continue their relationship with PDVSA have been multiples. These are the cases, for example, of the Jamaican government, European banks or Indian oil companies, to name a few.

2014-2016: Firsts Unilateral Coercive Measures against the Venezuelan Oil Industry

- Act 113-278: Act 113-278: “Venezuela Defense of Human Rights and Civil Society Act of 2014”, approved by the US Congress in December 2014, and signed by President Barack Obama that same month, became the platform on which the US will later apply other coercive measures. In its text, explicitly express the possibility of applying measures against PDVSA.

- Primer bullet: Executive Order 13692, issued in March 9, 2015, four months later, President Barack Obama declared Venezuela as “an unusual and extraordinary threat to the national security and foreign policy of United States”, and included the possibility of issuing measures against individuals and entities of the Venezuelan State¹.
- In May 2016, PDVSA begins to face problems to carry out commercial transactions in the international market. The Commerzbank closed the company’s account, under the allegation of receiving pressures by US Department of Treasury. In September, while the Venezuelan government made an offer to exchange 7 thousand 100 million dollars in PDVSA bonds, three major risk rating agencies advised investors against alleging default risk².

2017-2018: Donald Trump and a New Dimension of the Economic Blockade against the Venezuela Oil Industry

In 2017, once Donald Trump assumed the Presidency, international financial institutions, abiding by Act 113-278 (2014) continued avoiding any transactions with PDVSA bond payment transaction, refuses to receive funds from the Venezuelan State³.

However, Executive Order 13808 of August 2017 revealed the true dimension of Donald Trump’s economic blockade policy against PDVSA. When all transactions related new debt issues and bonds to the Venezuelan government, as well as the repatriation of PDVSA dividends (excluding CITGO for the time being) were blocked. Similarly, in December 2017, an international bank

1 <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13692.pdf>. Issued on August 20, 2019

2 <http://www.15yultimo.com/2019/03/18/impacto-de-la-guerra-economicontra-el-pueblo-de-venezuela/>. Issued on August 20, 2019.

3 <https://www.nuevatribuna.es/articulo/america-latina/notas-bloqueo-venezuela/20181102172448157076.html> Issued on August 20, 2019.

blocked a transaction for the payment of cabotage service for the transport of fuel by PDVSA⁴.

If we analyze the current situation at that time in Venezuela, we could argue the White House adopted this new Executive Order in retaliation to the Venezuelan government for the election of the National Constituent Assembly.

In January 2018, the first consequences of banning transactions with PDVSA arise when vetoed creditors to be paid off due to those measures.

In March 2019, the Department of Treasury issued a new Executive Order 13827, prohibiting the renegotiation or restructuring of the Venezuelan State debt and PDVSA, as well as the repatriation of Citgo's earnings, restricting its citizens, and companies' access to the Petro. A cryptocurrency issued by the Venezuelan government and backed by crude oil reserves⁵.

On May 21, 2018, Executive Order 13835, issued a day after the Venezuelan presidential elections were held, widened the scope of previous orders by including the prohibition of acquisition and accounts receivable related to the debts of the Venezuelan State and PDVSA⁶.

2019: The Oil Blockade is imposed against Venezuela

However, the severest measure taken against the Venezuelan oil industry was on January 28, 2019, with Executive Order 13857, which blocked all PDVSA assets under US jurisdiction in order to place them under the control of a "new Government". According to John Bolton, US National Security Adviser, this measure blocks 7 billion dollars in PDVSA properties, as well as

4 <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13808.pdf>. Issued on August 20, 2019.

5 <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13827.pdf>. Issued on August 20, 2019.

6 https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_eo_13835.pdf. Issued on August 20, 2019.

11 billion dollars in losses. While Citgo could continue to operate, its earnings would fall into blocked bank accounts until the “new government” takes over⁷.

These measures affect all companies that have business or interests with PDVSA and CITGO within the US jurisdiction. Thus, it is very difficult for an oil company, with an interest in the US market, to ignore these threats, which come along in dealing with PDVSA.

On February 1, 2019, the Department of the Treasury announced that foreign companies that acquired Venezuelan oil through the US banking system would have until April 28, 2019 to end purchases⁸.

On February 12, 2019, National Security Adviser, John Bolton, again made threats against companies, businesspersons and third parties in general, warning, “He will not forget countries and companies that do business with Venezuelan oil”. This statement came after the visit to India of President of PDVSA, Manuel Quevedo, who traveled to increase sales of oil and overcome the blockade imposed by the US government⁹.

In anticipation of possible measures, on February 21, 2019, the parliament of Jamaica approved to take over 49% of PDVSA shares on Petrojam. The proposed acquisition law was an initiative by Prime Minister Andrew Holnes, after considering the scope of Executive Order 13808 (2017). The Prime Minister declared that Petrojam was at risk of high fines for violating such sanctions, and that it was not a political problem, but an economic and energy security matters¹⁰.

7 <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13857.pdf>. Issued on August 20, 2019.

8 <https://www.efe.com/efe/america/economia/ee-uu-da-hasta-28-de-abril-a-empresas-foraneas-para-comprar-crudo-venezolano/20000011-3885741>

9 <https://www.efe.com/efe/america/economia/ee-uu-advierte-a-la-india-que-no-olvidara-si-compra-petroleo-de-venezuela/20000011-3895822>

10 <https://www.efe.com/efe/america/portada/jamaica-aprueba->

On March 6, 2019, as on previous occasions, National Security Advisor, John Bolton, reported he had warned foreign banks with sanctions if they were involved in transactions with Nicolás Maduro's Government¹¹.

In addition to the implementation of unilateral coercive measures, the White House has de facto pressured all potential PDVSA partners worldwide, and has undertaken a real persecution against all companies that violate the economic blockade imposed to Venezuela.

In this context, another consideration is the decisions emanating from international and arbitration bodies. For instances, on March 8, 2019, the International Center for Settlement of Investment Disputes (ICSID) decided that Venezuela should pay 8 billion dollars to Conoco Phillips, a US oil company, as compensation for expropriating its assets, as part of the nationalization process that took place in 2007¹².

Three days later, the Department of Treasury applied restrictions to a Russian bank that attempted to circumvent US sanctions, while negotiating with Venezuelan oil. That same day, Secretary of State, Mike Pompeo, met with Foreign Secretary of India, Vijay Gokhal, to discuss the purchasing of Venezuelan oil. As a result, on March 13, 2019 the Indian oil company Reliance reported that it had stopped the delivery of diluents for processing heavy crude to PDVSA, and it would not resume them until lifting trade restrictions imposed by the US¹³.

recuperar-el-49-de-petrojam-controlado-por-la-venezolana-pdvsa/20000064-3905006

11 <https://www.efe.com/efe/america/economia/ee-uu-amenaza-con-sancciones-a-entidades-financieras-que-ayuden-maduro/20000011-3917424>

12 <https://www.efe.com/efe/america/economia/el-ciadi-dictamina-que-venezuela-debe-pagar-8-000-millones-de-dolares-a-conocophillips/20000011-3919487>

13 <https://www.acn.com.ve/empresa-india-reliance/>

On March 26, 2019, the International Court of Arbitration of the International Chamber of Commerce (ICC) temporarily froze its mediation on the 300 million dollar payment of Paraguay's debt to Venezuela. This decision was issued after a meeting between the Paraguayan President, Mario Abdo Benítez and the President of the National Assembly of Venezuela, Juan Guaidó, who agreed that the amount owed could not be pay off to the what they consider the unrecognized Government of Nicolás Maduro¹⁴.

On March 29, 2019, the US Special Envoy for Venezuela, Elliott Abrams, declared that his government was pressuring China and oil companies around the world to suspend commercial relations with the government of President Nicolás Maduro. These pressures included efforts by the US ambassador to China and Indian oil companies¹⁵.

On April 5, 2019, the Treasury Department announced measures against thirty-four oil ships owned by PDVSA, as well as two companies, Ballito Shipping Incorporated, of Liberia, and ProPer In Management Incorporated, of Greece, which transported oil from Venezuela to Cuba. The measures prohibited transactions with said companies, as well as freezing assets held in the United States jurisdiction¹⁶.

A week later, the Treasury Department announced sanctions to other four companies for transporting crude oil from Venezuela to Cuba. In this case, the sanctioned companies were Jennifer Navigation Ltd., Large Range Ltd. and Lima Shipping Corp., of Liberia, and PB Tankers, of Italy¹⁷.

14 <https://www.efe.com/efe/america/economia/suspendido-arbitraje-por-deuda-petrolera-reclamada-venezuela-a-paraguay/20000011-3935737>

15 <https://www.efe.com/efe/america/economia/ee-uu-presiona-a-china-y-las-petroleras-para-que-rompan-lazos-con-maduro/20000011-3939167>

16 <https://home.treasury.gov/news/press-releases/sm643>. Issued on April 6, 2019

17 <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190412.aspx>. Issued on April 14, 2019

Subsequently, on May 10, the Treasury Department announced sanctions to two own oil tankers companies. Those affected were Serenity Maritime Limited, of Liberia, as well as its ship León Díaz, and the Monsoon Navigation Corporation, of Marshall Islands, and its Ocean Elegance freighter. Said vessels, both of Panamanian flag, had participated until March 2019 in the transportation of crude oil from Venezuela to Cuba. This measure was taken in retaliation for the detention of Deputy Edgar Zambrano by Venezuelan justice¹⁸.

Shortly after, the US pressures to India took effect and on May 24, 2019, the Indian Ambassador to the US, Harsh Vardhan Shringla, reported that his country had suspended the purchasing of Venezuelan oil¹⁹.

All actions and pressure described above carried out by the US government worldwide conclude an explicit and planned strategy to investigate, detect, threat or pressure, has been deployed against any company that tries to evade the oil blockade imposed against Venezuela. Likewise, the same line of direct and persistent action against sovereign states that maintained commercial relations with the country with the main objective of suffocating the Venezuelan economy.

Consequences of the Economic Blockade against the Venezuelan Oil Industry

The effect of the measures against PDVSA is immeasurable. It is difficult to know the extent on how the industry is affected what damage and obstacles that this whole process has had and in to what extent it can recover in the event that these measures cease. However, the data published by the Central Bank of Venezuela showed how affected is the GDP of Venezuelan oil activity.

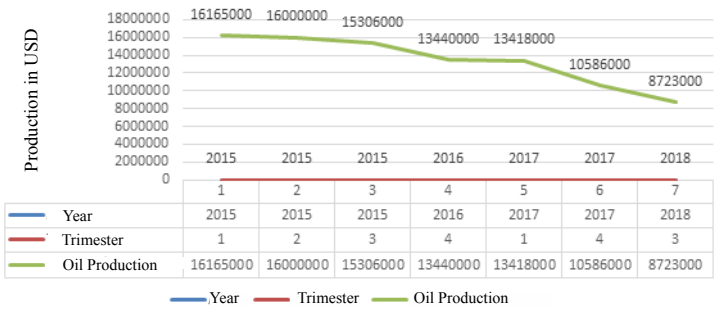
18 <https://www.efe.com/efe/america/politica/ee-uu-anuncia-nuevas-sancciones-por-el-arresto-de-opositores-en-venezuela/20000035-3973503>

19 <https://www.bbc.com/mundo/noticias-america-latina-48481970>

Oil activity during the first quarter of 2015, calculated at constant dollars of 1997, amounted to 16,165 million dollars, which is somewhat higher than what observed in the fourth quarter of 2014. A dropped below 16 billion dollars in the third quarter, when it reached 15,842 million and in the fourth quarter, when it felt to 15,306 million. A similar drop happened in 2016, culminating in the fourth quarter at \$ 13.440 million. 2017 started with a first quarter at 13,418 million and ended with 10,586 million in the fourth quarter, clearly affected by the unilateral coercive measures imposed by the US in August that year. By the third quarter of 2018, the last reported period, oil GDP barely reached 8,723 million²⁰.

In January 2019, the oil production was on 1.3 million barrels per day and by April 800 thousand barrels per day. This reduction affects primarily the Venezuelan people, who already have been suffering the rigors of the economic blockade

Oil production variation due to the economic blockade



Source: BCV. Own Elaboration.

Oil blockade and its effects on human rights

Since 2002 US have led an intense unconventional war against Venezuela. However, Donald Trump’s administration 20 <http://www.bcv.org.ve/estadisticas/manufactura>

has implemented considerably more aggressive strategies, exerting economic pressures, which directly affect the Venezuelan people.

Attacking the Venezuelan oil industry meant placing directly at risk the human rights of Venezuelans. A decrease in oil revenues, either by obstructing access to financial markets, or by prohibiting transactions with companies under US jurisdiction, is equivalent to a true war economy, with the social consequences it entails.

In such a manner, the advances the Venezuelan people had experienced due to an economic and social policy of redistribution of national wealth are torpedoed with such policies. Obviously, it is an aggression with the clear objective of generating human suffering and ultimately forcing a political change.

Such pressures and policies have its impact on the human rights situation in Venezuela, starting with the difficulties in guaranteeing economic, social and cultural rights. The reduction of resources available to the Venezuelan State have affected public and free education, health services, as well as social housing programs, disability benefits, among others, by being unable to import necessary supplies and equipment.

Even more serious in the diminishing resources available due to the oil industry blockade are the great difficulties for acquiring food by the people. This has forced the Executive Branch to create specific policies on the matter.

In this regard, the report of the United Nations High Commissioner for Human Rights, Michelle Bachelet, stated that...

The economic and social crisis worsened considerably between 2018 and 2019. As the economy continued to contract, inflation skyrocketed and public revenues declined because of a drastic reduction in oil exports. The Venezuelan population is facing diverse and interrelated violations of their economic and social rights". Later, it quoted data from the Food and Agriculture Organization of

the United Nations, which stated there are 3.7 million Venezuelan with malnutrition.²¹

Subsequently, it has been seriously compromised the right to an adequate standard of living due to the lack of investment. This translates into the deterioration of basic services, such as access to drinking water, natural gas, electricity and public transport. In this regard, the report of the High Commissioner also draws attention over the impact on economic, social and cultural rights²².

The lack of access to medicines is a worrying matter due to the consequences on the health and life of Venezuelan. According to the report of the social organization Sures, by 2015, the amount of imports of packaged medicines from the United States to Venezuela were 77 million dollars, 54.5 million dollars for medical and surgical instruments and another 25 million for material and supplies for x-ray equipment²³. Most of the medicines in Venezuela are imported with the benefits of oil production. Therefore unilateral coercive measures against the oil industry seriously compromise access to these essential goods. For this reason, to solve this situation the Executive Branch has activated the mechanisms provided by the multilateral health agencies.

In relation to unilateral coercive measures, the report of the High Commissioner Bachelet recognizes that “the latest economic sanctions are further aggravating the effects of the economic crisis, and therefore the humanitarian situation, given that the majority of foreign exchange earnings proceed of oil exports, many of which are linked to the US market”²⁴

21 https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_18_SP.docx

22 *Idem*.

23 <https://sures.org.ve/wp-content/uploads/2018/06/INFORME-MEDI-DAS-UNILATERALES-COERCITIVAS.-SURES.pdf>

24 https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_18_SP.docx

It is worth referring to the report of Alfred de Zayas, an Independent Expert of the United Nations, for the Promotion of an International Democratic and Equitable Order, who explains that by 2000 an extensive report of the former UN Human Rights Commission had condemned unilateral sanctions.²⁵

Thus, the mandate of the Special Rapporteur arises on the negative impact of unilateral coercive measures on the enjoyment of human rights, which it has been able to verify in his reports the extent that sanctions have over the violation of human rights and guarantees. Similarly, the report of Idriss Jazairy, the current Special Rapporteur, condemns the laws or national measures taken with the purpose of causing damage to citizens and entities of third countries with the intention of deterring from maintaining any kind of relationship with the country object of sanctions²⁶.

According to Sures report, Act 113.278 sponsored by President Barack Obama in December 2014, is the keystone to impose unilateral coercive measures on Venezuela, and on all actors who intend to maintain commercial relations with PDVSA, finally executed by the administration of President Trump as of August 2017²⁷.

Everything seems to indicate that as long as the unilateral coercive measures against PDVSA continue, the Venezuelan people will continue to experience the violation of their human rights. Not as a consequence of lack of commitment by the State in guaranteeing human rights, but because of the will of third countries that impose their own vision of the world, in open violation of the principles of international law and fully aware of the damage they cause to the population.

25 <http://www.zeit-fragen.ch/fr/editions/2017/no-19-7-aout-2017/lapplication-extraterritoriale-de-lois-americaines-est-incontestablement-une-violation-du-droit-international.html>

26 <https://undocs.org/es/A/72/370>

27 <https://sures.org.ve/wp-content/uploads/2018/06/informe-medidas-unilaterales-coercitivas.-sures.pdf>

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