Atlantic Council
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# EXPLORING HUMANITARIAN FRAMEWORKS FOR VENEZUELA

A report of the Atlantic Council's Venezuela Working Group

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The Adrienne Arsht Latin America Center (AALAC) broadens understanding of regional transformations through high-impact work that shapes the conversation among policymakers, the business community, civil society, and media. Founded in 2013, the center focuses on Latin America's strategic role in a global context, with a priority on pressing political, economic, and social issues that will define the trajectory of the region now and in the years ahead. Select lines of programming include: China in Latin America; Venezuela's crisis; Mexico's US and global ties; Colombia's future; a changing Brazil; Central American prosperity; combatting disinformation; shifting trade patterns and modernization of supply chains; charting a post-COVID future; Caribbean development; and leveraging energy resources. Jason Marczak serves as center director.

**Cover:** People, permitted for humanitarian reasons, cross the Simon Bolivar International bridge from Cucuta, Colombia, after it was reopened, as seen from in San Antonio del Tachira, Venezuela. Picture taken October 4, 2021. REUTERS/Carlos Eduardo Ramirez

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# INTRODUCTION

The humanitarian crisis in Venezuela reached unprecedented levels in 2021. In state-dependent and oil-dependent Venezuela, mismanagement and corruption in the Nicolás Maduro administration, as well as the loss in income from oil sales, has accelerated the existing economic crisis and deepened humanitarian suffering. According to the latest National Survey of Living Conditions (ENCOVI), 95 percent of Venezuela's twenty-eight million citizens live in poverty, while 77 percent live in extreme poverty—a 10-percent increase from last year. Despite an increasing dollarization of its economy and multiple currency reconversions by the Maduro administration, Venezuela's annual inflation reached 1,743 percent.

The health and economic effects of the coronavirus pandemic, compounded by nationwide fuel shortages, continue to worsen the country's multidimensional crisis, especially for Venezuelans living off a $2.50 minimum monthly wage. According to UNICEF data collected between 2019 and 2020, 32 percent of Venezuelan households are food insufficient, 40 percent of households have recurrent interruptions in water service, 25 percent of households do not have sustainable access to potable water, the under-five mortality rate is 24.2 per thousand live births, and maternal deaths have ballooned to such alarming numbers that statistics are no longer publicly disclosed.[1] Amid such suffering, almost six million Venezuelans have fled the country since 2015.

Efforts by the international community to alleviate Venezuela's humanitarian crisis—namely, the United Nations Humanitarian Response Plan (HRP)—have been commendable. However, contributions are lacking in both speed and size. Only 29 percent of the $700 million allocated for 2021 under the HRP has been executed (the execution rate was 24 percent in 2020 and 34 percent in 2019). Even a full execution of the allocated funds would be insufficient for a crisis that humanitarian experts say requires multiple billions of dollars in humanitarian aid.

Into this gap enter oil-funded humanitarian frameworks. Such frameworks could provide sustained humanitarian relief without requiring the time-consuming and bureaucratic allocation of funds from the United Nations (UN). An important benefit of an oil-funded program is the continued presence of compliant, accountable, and transparent Western firms in the Venezuelan oil sector. Providing mechanisms for Western and allied operators to remain in Venezuela can also help to maintain and rebuild critical infrastructure for Venezuela's long-term economic development. In the short term, an oil-funded mechanism could help European gas operators continue supplying natural gas inside Venezuela, guaranteeing reliable electricity, cooking gas, and fuel for medical and goods delivery for the local population.

Before they were paused by Maduro following the extradition of Alex Saab to the United States, the Norway-mediated negotiations between the Venezuelan democratic platform and Maduro representatives in Mexico City offered an opportunity to build political agreements necessary for an oil-funded humanitarian framework.[2] The negotiations are not a permanent space for reaching agreements, but the trust that can be generated among political factions can unlock the political support that a well-structured, transparent, and effective humanitarian mechanism would require.

To date, two public efforts by separate entities have proposed oil-funded humanitarian frameworks leveraging Venezuela's crude-oil proceeds to purchase aid. Both proposals attempted to mold frameworks for Venezuela taking into account lessons learned from the failed UN-managed Oil-for-Food program in Iraq, another heavily sanctioned country with corruption-related challenges. The first proposal originates from Oil for Venezuela, a foundation led by Venezuelan economist Francisco Rodríguez. The second originates from the Boston Group, a nonpartisan policy platform with members across Venezuela's political spectrum, oil-industry experts, and civil-society groups.

This policy brief is an effort by the Atlantic Council's Venezuela Working Group (VWG) to analyze the two existing oil-funded humanitarian proposals on Venezuela, and provide recommendations for future humanitarian proposals' governance structure, financing mechanisms, transparency controls, political agreements, legal requirements, and multilateral participation to achieve the most optimal possible outcome for the Venezuelan people.

**Note from the VWG**: The VWG and the Atlantic Council do not seek to sponsor or promote any of the humanitarian programs and proposals under study. The VWG is aware of other private efforts to devise and promote oil-funded frameworks for Venezuela and restore fuel swaps, but for this publication, the VWG considered only the two *public* humanitarian proposals. As part of this process, the VWG held multiple meetings and consultations with the US government, members of Venezuela's democratic opposition, international and multilateral organizations, and private-sector actors in Venezuela. The authors also note that further analysis is required, especially surrounding the nuances of international humanitarian agencies' and nongovernmental organizations' administration and distribution of humanitarian aid in Venezuela. This analysis will be considered for future VWG programming.

# WHY THE UNITED NATIONS OIL-FOR-FOOD PROGRAM IN IRAQ SHOULD NOT BE REPLICATED: LESSONS FOR VENEZUELA

In 1995, the adverse humanitarian effects of the UN Security Council (UNSC) sanctions on Iraq led to the implementation of exceptions to authorize oil exports to fund humanitarian aid, particularly food, in a program known as Oil-for-Food.

The implementation of the Oil-for-Food Programme in Iraq was based on the UNSC's authority.[3] For that purpose, after years of negotiations, the UNSC and Saddam Hussein's government signed a memorandum of understanding (MOU) in 1996. The two main components of the MOU were that the UNSC would oversee the oil imports, procurement of goods to satisfy humanitarian needs, and the distribution of those goods; and that the Iraqi government would conduct all the transactions related to oil purchase agreements, procurement, and distribution.[4]

According to the UN, some 3.4 "billion barrels of Iraqi oil valued at about $65 billion were exported under the Program between December 1996 and 20 March 2003. Of this amount, 72 per cent of the total was allocated towards humanitarian needs nationwide after December 2000 (...) about $31 billion worth of humanitarian supplies and equipment were delivered to Iraq under the Oil-for-Food Program between 20 March 1997 and 21 November 2003, including $1.6 billion worth of oil industry spare parts and equipment."[5]

Since 2004, investigations revealed fraudulent schemes within the program that boosted corruption in Iraq and abroad. The Independent Inquiry Committee (IIC), appointed in 2004 by then UN Secretary-General Kofi Annan, conducted an independent investigation, which concluded that the Iraqi government "manipulated the Program to dispense contracts based on political preferences and deliver illicit payment from companies that obtained oil and humanitarian goods contracts."[6] The estimate of total illicit income—including oil surcharges and humanitarian kickbacks—was $1.8 billion, plus billions of dollars smuggled in oil and humanitarian goods that were rerouted.[7] Despite those deviations, the Oil-for-Food Programme had positive—but still limited—humanitarian impacts. While exact numbers are unavailable, a 2005 IIC report concluded the program helped to mitigate the severe food crisis in Iraq, especially during the 1999–2001 drought.[8]

Even though the roots of the program's pitfalls are varied and long-standing, including the systemic corruption in Iraq, our analysis identifies the following five design failures that created incentives for rent-seeking behaviors and illicit payments.[9]

- **The program was too dependent on the government of Iraq,** which had incentives to increase political support by distributing economic gains through the illicit rerouting of resources.
- **The UN-executed oversight mechanisms lacked enforcement capacity** against the Iraqi government's opportunistic and illicit behaviors. As a result, the program's accountability was flawed, even when the MOU established sophisticated oversight institutions on paper.
- **The tasks that the UN assumed surpassed its institutional capabilities,** and revealed inconsistent procurement practices.[10] The Iraq experience demonstrated that the humanitarian intervention of international organizations could fail due to the limited oversight and enforcement capacity of those organizations.[11]
- **The program was conceived as temporary relief, but lasted almost eight years**. This overextended timeline for a program designed with shorter time horizons allowed for increasing governance challenges, the gradual weakening of the program's oversight mechanisms, and graft.
- The pressure to alleviate the humanitarian relief created incentives to tolerate the program's failures as the "lesser evil."

Based on this experience, any proposal for Venezuela that leverages oil revenues to purchase humanitarian aid should consider these main guidelines.

- **Humanitarian programs require complex political negotiations**. The Iraqi government initially rejected the implementation of the humanitarian program, calling it a violation of Iraq's sovereignty. After years of negotiations, in 1995, Iraq finally agreed to implement the program. In the Venezuela case, it is necessary to consider the incentives of the different stakeholders related to the Venezuela program, mainly the Maduro administration and the interim government.
- While US sanctions routinely contain humanitarian exemptions for basic food or medical transfers, such as in the case of Cuba, an additional exemption would be required in an oil-for-food context given that US-governed actors would be engaging with the Maduro administration.[12] From that perspective, **any humanitarian framework for Venezuela should be part of a broader humanitarian strategy**, and not simply part of private-public

partnerships. Private-public partnerships are designed exclusively on economic incentives, while humanitarian programs should be based on four basic principles that are not economic driven: humanitarian perspective, impartiality, neutrality, and independence. The recent failures of some public-private agreements to implement oil-for-food programs in Venezuela demonstrate the relevance of the humanitarian framework.

- **Given Maduro's sanctioned administration, any humanitarian framework will require special arrangements between Maduro and the US-backed democratic forces to overcome legal and transparency hurdles**. Otherwise, the Maduro administration would seize any opportunity for illicit behavior in the implementation of a humanitarian program.[13]

- The failures of the Iraq program can be explained, in part, by its eight-year duration despite evidence of stakeholders' malpractice. **Humanitarian programs should be designed as temporary mechanisms with an incremental scope**, subject to scrutiny and conditional renewal. Therefore, they should have specific content that allows for a gradual expansion as the program's capabilities are built.

- In the Venezuela case, there is another difference: the crisis has not been addressed by the UNSC. The UNSC adopted the Iraq sanctions program, but Venezuelan's was adopted by the US government. Therefore, **any program aimed to allow oil sales in the United States or as compensation to Western operators—currently prohibited by sanctions—should be authorized by the US Treasury Department Office of Foreign Assets Control (OFAC).** The involvement of an international organization is not necessary to authorize prohibited transactions, although it could improve the program's accountability.

- **Special permissions must be granted for local gas production in Venezuela**. Most of the natural gas from those operations is used for the generation of electricity in the country, therefore playing a critical humanitarian role. As the Western investors managing the key productive assets were paid in kind with crude oil, they have received no compensation during the last twelve months due to the sanctions imposed on the oil sector. Should the Western operators of natural-gas projects continue to be banned from receiving in-kind debt payments for past and ongoing natural-gas output, this could lead to the shutdown of the operations. Shuttered operations would have significant humanitarian consequences, such as a lack of cooking gas or domestic fuel.

The Iraq experience shows that to avoid incentives for opportunistic or corrupt behaviors, any humanitarian framework for Venezuela involving oil should consider the following: the duties that derive from international humanitarian law; the constraints derived from Maduro's mismanagement and corruption, and international recognition of the interim government; the design of a simple and specific humanitarian program with a narrow scope; and the limited capacity of international organizations to assume broad oversight duties.

**Note from the VWG on next section**: In considering the analysis of the two humanitarian proposals below, the reader should note that any proposal design should have at least four characteristics, including

- the US government, the Maduro administration, and the Venezuelan democratic opposition must be parties to the agreement;

- the Maduro administration must have incentives to participate, and has to be an active participant given that it controls the territory and infrastructure, but the other parties must be guaranteed that revenues will be used transparently for appropriate humanitarian purposes;

- if the Maduro administration controls the sale of oil, or the procurement or distribution of imports, the previous objective would not be achieved given the lack of transparency, corruption, and limited capacities of the state; and

- any increase in oil investment and production that results from the revenues made possible by the program should not lead to revenues used outside the program.


People on a motorbike pass by a Venezuelan state oil company PDVSA gas station closed due to the lack of fuel, in San Cristobal, in the western state of Tachira, Venezuela. In Francisco Rodriguez's Oil-for-Venezuela proposal, Petróleos de Venezuela (PDVSA) and the joint ventures with foreign partners would participate in the humanitarian program in one of two ways: partial participation, which would require allocating only some of their exports to the program, or full participation, by which they commit all the sales revenue to the program. Picture taken January 27, 2022. REUTERS/Carlos Eduardo Ramirez.

# UNPACKING THE OIL FOR VENEZUELA PROPOSAL

## Overview

In 2019, the organization Oil for Venezuela, led by Venezuelan economist Francisco Rodríguez, presented a proposal to create an oil-for-humanitarian-imports program.[14] The purpose was to create a mechanism allowing some oil exports from Venezuela to the United States, guaranteeing that the revenues generated would be used toward imports with humanitarian purposes. The plan would require that the Maduro administration and the interim government negotiate an agreement to create an institutional framework for its implementation, and that the US government agrees to provide a general license allowing some Venezuelan oil exports to the US market. The program would be governed by an administrative board with equal memberships from both political sides and some additional members appointed by the international community (e.g., the UN Security Council). The board would have three subcommittees to oversee oil sales, import procurement, and food distribution. Export proceeds would be deposited in escrow accounts, under the control and supervision of the US government.

The administrative board would have the power to determine the type of humanitarian assistance included in the mechanism, which could also include investments to recover infrastructure for clean water supply and stable power generation that are deemed critical for mitigating the humanitarian crisis. Energy infrastructure is also included among the most critical areas for humanitarian assistance. Addressing the lack of maintenance on gas pipelines and its negative impacts on electricity production is among the suggested priorities in Rodríguez's proposal.

Petróleos de Venezuela (PDVSA) and the joint ventures with foreign partners would participate in the program in one of two ways: *partial participation*, which would require allocating only some of their exports to the program, or *full participation*, by which they commit all the sales revenue to the program.

For the exporting entities to be able to use some of the revenues to import capital goods or intermediate goods for their projects in Venezuela, full participation would be required.

In their proposal, Rodríguez and his team explicitly discuss how to avoid some of the pitfalls of the Iraqi experience. A contribution of their work has been identifying some of the problematic features of the UN Oil-for-Food Programme in Iraq, and proposing some alternative institutional designs to mitigate them in the context of the Venezuelan case. For example, the Iraqi government oversaw oil sales and used the discretional allocation of oil to buyers to obtain significant side payments and kickbacks. In addition, Iraqi authorities seized kickbacks from providers of humanitarian goods, while smuggling a significant amount of oil outside the program—thanks, in part, to the increased production capacity that the program made possible. To mitigate these problems, Rodríguez's proposal requires that the oil be auctioned by a technical subcommittee of the administrative board. It also requires that projects must fully commit to the program in order to use part of the revenue to reinvest in oil projects. Any humanitarian framework or proposal for Venezuela would benefit from Rodríguez's assessment of the risks and opportunities from Iraq's program.

## Expert Analysis

One of the stated objectives of Oil for Venezuela is to streamline the mechanism used in Iraq to safeguard against excessive bureaucracy and implementation delays while, at the same time, reduce corruption. However, the proposal would require the creation of a complex institutional structure if it is to handle a large program that can have nationwide impact and reach the humanitarian needs of Venezuela's most vulnerable populations. Rodríguez convincingly argues that, without an administrative board with checks and balances—like the one he proposes—the program could be undermined by corruption practices like those seen in the Iraqi case. For example, if PDVSA or the joint ventures that it controls are authorized to sell oil under their own discretion, the Maduro administration could find opportunities to line its pockets through on-the-side fees.[15]

The ambitious and complex features of the Oil for Venezuela proposal are both a virtue and a major handicap.[16] While the proposal unambiguously seeks to avoid being considered a replica of the failed UN program in Iraq, critics will inevitably draw negative comparisons, and perhaps disregard some of the proposal's technical merits that could be adjusted to make the mechanism more viable.

Comparisons with the Iraq program could prove politically costly for members of the Joseph Biden administration and the US Congress who support the proposal, particularly during a midterm election year in which swing states with Hispanic and Venezuelan constituencies will have an influential role. The Venezuela interim government would also have a hard time persuading its domestic constituents and its partners in the international community if the proposal is unable to guarantee full transparency and accountability. Another complicating factor is the diverging viewpoints on sanctions adjustments within Venezuela's broader democratic coalition.

Rather than unrolling a massive, time-consuming humanitarian proposal that would require broad political capital and trust among all participating actors, it seems more appropriate to devise a program that is more limited in scope and uses existing governance structures, including: OFAC's license regulations; the inclusion of international oil companies that are already present in Venezuela and subject to anticorruption compliance mechanisms; and the use of established procurement and distribution channels like the UN World Food Programme (WFP).[17] For example, a well-crafted OFAC authorization might permit some exports from private partners of joint ventures in Venezuela to finance ongoing humanitarian programs administered by reliable international entities like COVAX and the WFP.[18] To avoid overreliance on international multilateral organizations, other OFAC-blessed organizations, specialized by sector, should also play a role in the administration. And, as discussed above, local gas production in Venezuela plays a key humanitarian function. It does not generate revenue for the government and, therefore, is not subject to secondary sanctions restrictions. A specific program should be adopted to allow payment in kind for this critical activity, for the needs of the Venezuelan people and to ensure a basic standard of humanitarian assistance.

Boxes with humanitarian aid from the National Unit for Disaster Risk Management that will be delivered to Venezuelan refugees are seen in Arauquita, Colombia. Efforts by the international community to alleviate Venezuela's humanitarian crisis have been commendable, but insufficient. Almost six million Venezuelans have fled the country since 2015. Picture taken March 28, 2021. REUTERS/Luisa Gonzalez

# AN ASSESSMENT OF THE BOSTON GROUP PROPOSAL

## Overview

The Boston Group was founded in 2002 by parliamentarians from the United States and Venezuela, and served as a venue for members to reflect on topics critical to the advancement of Venezuelan society. Over time, the participation of elected leaders waned. Today, the Boston Group is composed of Maduro government officials, regulators, oil-industry practitioners, lawyers, economists, and political advisers representing both the democratic opposition and the Maduro administration. While the current group composition could weaken its ability to ensure policy implementation, the participation of influential government and opposition supporters could lead to consensus and, therefore, reasonable political viability of the group's humanitarian-aid proposal at a time when solutions-oriented dialogue with actors from across the political spectrum has faltered.

The Boston Group has worked on its oil-for-humanitarian-aid proposal for Venezuela's social and economic recovery since 2020. The proposal is divided into two phases, and includes a general set of guidelines for the use of proceeds from the sale of certain volumes of Venezuelan oil to fund humanitarian aid. It also includes guidance on the establishment of an escrow account to manage said proceeds, and the creation of an oversight committee.

## Expert Analysis

The Boston Group proposal considers the sale of 2–3.5 million barrels of oil per month. The oil would come from joint ventures that produce synthetic crude by upgrading extra-heavy oil, such as the Petropiar operation in the Orinoco Oil Belt in eastern Venezuela.

The proposal suggests that 50 percent of the revenue generated from the sale of each cargo shipment be deposited in an escrow account. The other 50 percent would be earmarked for the joint-venture minority partner. OFAC would need to issue a specific license to allow for the sale of the oil. The proposal aims to execute a one-year supply contract, with an option for extension.

While it is generally assumed that the 50 percent of oil sales earmarked for the escrow account would include payment to the government for royalties, income tax, and other fiscal liabilities, it would be useful if the plan specified how the distribution would break out. It would also be helpful if the document clarified how the eventual declaration of PDVSA dividends would be managed. There is no suggestion of the mechanism by which the Maduro administration would formally cede its revenue. This clarification is fundamental to understanding the role of the US government in the flow of the dividends and securing unified support and trust from the interim Venezuelan government. In practice, these issues should be relatively easy to define in an agreement executed by the parties, including the Maduro administration, the US government, PDVSA, and the joint-venture private interests involved in the transaction.

Similarly, it would be useful to disclose a breakdown of how revenue would be distributed to minority partners. It is expected that this allowance would go to the repayment of debt that the joint venture has accrued, along with capital and operating expenditures needed to maintain operations. Additional details would clarify how the proposal may impact crude-oil production. This additional level of detail can help to galvanize trust and support from all involved parties, by detailing how transparency and accountability will be ensured throughout the transactions between PDVSA and the minority partner.

In addition, other oil-producing joint ventures in which Western companies are present (like PetroQuiriquire, or PetroCarabobo) should participate in the program, and the crude oil could have a final destination in countries other than the United States, as long as the shipment can be traced to places such as Spain, Italy, and India.

The Boston Group proposes that Venezuelan legislation and sanctions restrict exports to synthetic crude alone, as natural crude can only be marketed by a state-owned company (per articles 27 and 57 of the Organic Hydrocarbon Law). This synthetic crude restriction could pose serious challenge to the rest of the proposal given how little synthetic crude is being produced due to significantly deteriorated upgraders and lack of diluents. It should be noted as well that if the Maduro government wants to assign all non-synthetic crude oil from a joint venture to the foreign operator for marketing, they can do so, per the Hydrocarbon Law.

An effort to ensure the proposal's compatibility with local legislation, while simultaneously broadening participation to all private investors—including joint ventures that do not directly export their production—would be useful. If applied more broadly, the program could eventually support increased transparency of 25–35 percent of Venezuelan exports. Such a shift would support the US government's effort to improve accountability, and its general preferences regarding sanctions and equitable treatment for US and non-US persons.

The second phase of the Boston Group proposal focuses primarily on the creation of a consultative board to interact with a multilateral organization (the group expresses a clear preference for the United Nations). The board would be composed of three representatives each from the Maduro administration and the democratic opposition; two representatives from the Boston Group; and one additional representative jointly selected by the other eight representatives. In a hyper-polarized environment with a lack of trust among players, the board should prioritize technical expertise, reputation, and credibility of the members over political affiliation. It would be beneficial to limit the number of political players, and to include representatives from competent and reputable local nongovernmental organizations.

# RECOMMENDATIONS

Following expert review and analysis of the two humanitarian proposals, and the failed Iraq experience to fund humanitarian aid through oil proceedings, the Atlantic Council's VWG sees six key considerations that could be incorporated in a potential humanitarian framework for Venezuela: participating actors, governance, transparency, multilateral agencies, a legal framework, and US licenses. While humanitarian-specific considerations such as procurement, administration, and distribution of aid are beyond the scope of this publication, the VWG members recognize the importance of studying them in the future. The recommendations below are a result of multiple meetings and consultations that the VWG held with the US government, members of Venezuela's democratic opposition, international and multilateral organizations, and private-sector actors in Venezuela.

The VWG is fully aware of the potential pitfalls in any humanitarian framework for Venezuela that includes participation from the Maduro administration. The VWG also recognizes the limited capabilities of the United Nations and other multilateral institutions to ensure full oversight and transparency in a humanitarian program, especially in Venezuela's protracted multidimensional crisis. Nonetheless, VWG members and the key stakeholders agree that the considerations below can stimulate constructive debate and forward-looking analysis for out-of-the-box mechanisms to alleviate Venezuela's humanitarian crisis—the most severe in the modern history of the Western Hemisphere.

**A political agreement between Venezuelan democratic forces and the Maduro administration is required for any oil-funded humanitarian framework**. While currently suspended, the Norway-mediated negotiations in Mexico offer a unique consensus-building space to achieve such agreement. A political agreement that includes a majority of Venezuela's political factions is a necessary first step to avoiding or reducing partisan interference across the humanitarian mechanism, especially in the selection of beneficiary programs and the agreement's execution. The humanitarian framework, including its specific details around the design of governance structure, transparency mechanisms, and roles of participating actors, should be made public as part of a Venezuelan-led agreement to support the Venezuelan people—and not as an achievement of one of the political factions.

**Any oil-funded humanitarian framework for Venezuela should be framed under internationally recognized humanitarian principles.** The program would seek to finance humanitarian aid with oil proceeds, as part of the relief that Venezuela's complex humanitarian emergency requires. Top areas of focus for immediate aid should be the water supply, as well as power generation and transmission. As a result, all program transactions—from oil sales to the distribution of humanitarian aid—must meet general humanitarian principles such as neutrality, impartiality, and independence. Importantly, an initial humanitarian program should not aim to address structural challenges in Venezuela's oil industry or broader economy, or facilitate public-private agreements with the Maduro administration that fail to comply with humanitarian principles and could result in malpractice.

This does not mean, however, that future programs cannot have a broader focus that helps to rebuild key sectors of the Venezuelan economy. In fact, an initial humanitarian program can help to establish a precedent of trust among participating actors, transparency, and legal frameworks for additional programs to operate successfully in Venezuela. Rather, this approach is a short-term endeavor to invest in basic service provision, which can hopefully help to restart a longer-term recovery process for the country.

**Avoid political interference and corruption by ensuring a balanced governance structure that includes equal representation from actors across the political spectrum, civil society, and the international community.** Based on the neutrality principle, the program must have a transparent and plural governance body with specific ethical requirements for its members. All members of this body—including representatives from the interim government, the Maduro administration, nongovernmental organizations, and the international community—should be held accountable for their decisions as part of this program, and should undergo continuous mandatory training on governance, transparency, ethics, and humanitarian-aid best practices. Independent and experienced organizations such as Transparency International could provide these mandatory trainings.

Rely on existing humanitarian organizations to design and disburse humanitarian aid according to best practices. The broad spending categories of the humanitarian aid to be disbursed under any program should be defined ex ante. The program's governance structure should not define the specific humanitarian projects that will receive funding; rather, areas of expenditure should be defined based on the United Nations' Office for the Coordination of Humanitarian Affairs (OCHA) diagnosis of the financing needs of Venezuela's humanitarian crisis. The governing body should then deliberate and decide the allocation of funds into those broad categories, including health, food and water assistance, fuel, and infrastructure. That allocation should follow guidance from national and international humanitarian experts—rather than politicians—who understand Venezuela's humanitarian needs, based on population groups and geography. Ongoing beneficiary programs that could be considered for funding include: the COVAX facility and traditional immunization programs, the Humanitarian Response Plan (HRP) 2021, and programs directed to water sanitation and hospital infrastructure. International humanitarian organizations such as World Food Programme, Pan-American Health Organization, UNICEF, and the International Federation of the Red Cross should have a central role in the administration and distribution of both existing and new beneficiary programs, especially considering Venezuela's fragile infrastructure and weak administrative capacity. Importantly, these organizations must work in tandem with independent and reputable civil-society groups to provide monitoring and evaluation that can be reported back to the governing body.

**An oil-funded humanitarian framework should have a specific scope, timeline, and outcome. Less complex programs could be more acceptable to all potential participants, especially the United States, the United Nations, and other multilateral organizations.** The program can then be scaled by learning from its successes and avoiding its pitfalls. At the current price, limited oil volumes—at the level that current joint ventures can produce in the short term—could yield large revenues for Venezuela. These revenues could then benefit a significant portion of the population through targeted humanitarian-aid programs. Finally, humanitarian relief must be considered just a temporary solution. To solve the root cause of Venezuela's complex humanitarian emergency, it is necessary to implement deep economic and social reforms that are outside the scope of this proposal.

**An optimal humanitarian framework should include the open and transparent participation of compliant US and non-US oil and gas operators**. As stated above, an initial humanitarian program would not seek to solve the long-standing economic constraints in Venezuela's oil industry but, rather, to finance humanitarian aid with oil proceeds. Therefore, the program should allow the open and equal participation of compliant US and non-US oil-industry operators.

For example, a PDVSA-Western-based oil venture can be established for the humanitarian program, but the oil company must maintain control over the flow of money. This is a crucial requirement to avoid potential malpractice from PDVSA and the Maduro administration. The oil company would be allowed to use a portion of the oil-sale proceeds for operational and financial expenditures, including servicing debt. In exchange, the oil company would be required to pay taxes, royalties, and dividends into the escrow account to fund the humanitarian program.

To guarantee the continued supply of much-needed gas—a basic resource needed to avoid further deepening the country's humanitarian crisis—any humanitarian program should consider allocating a portion of the escrow-account expenditures to pay for gas operations of firms such as Eni, Repsol, and Total, or otherwise allow them to receive direct payments in kind. International oil and gas companies can play a crucial role in ensuring that energy exports from Venezuela are carried out with respect for OFAC compliance standards and in full transparency. Moreover, allowing foreign partners to get paid has the advantage of keeping them in the country, making possible a faster recovery of the oil sector over the long term, which would be crucial for any economic-recovery plan.

**Provide open and transparent information throughout the program.** To be eligible, oil companies participating in this program must be willing to provide information about how much oil was extracted, how much oil was sold and at what price, how much oil revenue was reinvested to sustain operations, and verifiable calculations of the royalties, taxes, and dividends deposited in escrow. It is of critical importance to have mechanisms for monitoring payments, transparency, accountability, and civil-society inclusion before, during, and after the execution of the program. OFAC should serve as the oversight body to enforce standards of compliance and transparency across oil exports, and sale transactions across the framework.

**The US Treasury Department should consider issuing a special authorization.** Currently, US executive orders prohibit hydrocarbon exports from PDVSA to the United States. All US-destined oil exports would require a license issued by OFAC. Other countries with similar approaches to Venezuela would likely need to issue their own special authorizations as well.

OFAC´s 2019 humanitarian guidance provides the framework for granting a license to use oil revenues for humanitarian purposes. A critical component to facilitate the issuance of this license is the transparency and credibility of the humanitarian program. Sound institutional mechanisms that reduce the risk of malpractice in terms of resource deviation or politicization will increase the viability of granting a humanitarian license. If it is issued, the license should at least authorize

- corporations operating in Venezuela, such as joint ventures or private partners, to export oil to the United States and to other allied countries—such as Spain, Italy, or India—where the traceability of the shipment is guaranteed to any reputable oil buyer or destination approved by OFAC;

- US and Western corporations to operate in Venezuela, and to buy and pay for permitted Venezuelan oil exports;

- the distribution of oil payments related to payments of taxes, royalties, and dividends to be deposited in an escrow account, with the remaining balance used for operational and capital expenditures necessary to keep up production;

- the use of proceeds deposited in the escrow account for humanitarian purposes through accredited humanitarian organizations; and

- a governance mechanism to ensure transparent and effective accounting of all funds deposited in escrow; the OFAC license cannot be used to cover private-public agreements not based on humanitarian principles, and should include a snapback provision that is triggered if any of the parties involved fail to comply with the special authorization.

**A humanitarian program should not move forward without *all* of the conditions for its transparent and effective execution being met.** An oil-for-aid program should not go forward if distribution, transparency, and related issues are not resolved. To avoid repeating structural issues identified with the Oil-for-Food Programme in Iraq and potential malpractices from the Maduro administration, any of the following conditions should be considered grounds for program suspension, including

- attempts to alter the impartial, multiparty composition of the governance structure;

- attempts to modify or conceal data relating to the quantity of oil extracted, the quantity sold, and the price at which it was sold;

- attempts to modify or conceal data relating to the quantity of humanitarian-aid items purchased and the price at which they were obtained;

- attempts to funnel funding into specific humanitarian projects that align with one or more actors' personal benefits;

- failure to establish and follow a specific timeline for winding down what should be a temporary program; and

- revocation or expiration of the US Treasury Department's special authorization.

# CONCLUSION

Entering 2022, Venezuela finds itself at a crucial crossroads. While the interim government's mandate has been renewed, opposition fractures are evident, the Maduro government remains entrenched, and the country's humanitarian crisis drags on with no end in sight.

Against this backdrop, it is particularly urgent for the international community to leverage the legal, financial, and diplomatic resources at its disposal to provide relief to the most vulnerable Venezuelans. While the policy recommendations in this publication are not meant to be fully exhaustive, taken together, they present possible avenues for designing, developing, and executing an out-of-the-box humanitarian-relief framework that places the needs of the Venezuelan people first. But, to do so, political actors in Venezuela and the United States should foster the conditions for trust, consensus building, and unity among diverse stakeholders, which can open pathways for sustainable and transparent humanitarian agreements.

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# ENDNOTES


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15 In an August 2021 meeting of the AC Venezuela Working Group with Francisco Rodríguez, he mentioned this as a potential weakness of the Boston Group's proposal.

16 The proposal acknowledges that it only provides the basic structure, which must be fully fleshed out with more details, which would naturally be part of the political negotiations and circumstances.

17 Francisco Rodríguez also acknowledged that, because the proposal was presented in 2019, some adjustments to the new political realities of 2022 might be appropriate. He agreed that smaller steps to gain trust might be politically expedient but insisted that the magnitude of the Venezuelan humanitarian crisis requires a comprehensive program like the one outlined in 2019.

18 In the meeting, Rodríguez argued that any proposal should carefully consider its implications for the protection of Venezuelan assets abroad from creditors.

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