



The Saga Continues: Venezuela's 31 tonnes of seized gold at the Bank of England

Description

In what's becoming one of the longest running legal dramas in the global gold market, the saga of Venezuela's 'frozen' gold in London continues to roll on, most recently reaching the UK Supreme Court in a 4 day court hearing between 19 – 22 July.

At the core of the legal drama is the question of who has the authority to withdraw Venezuela's gold reserves which are stored in custody at the Bank of England. Is it the Banco Central de Venezuela (BCV) under the direction of de facto president of Venezuela, Nicolás Maduro, or is it a team directed by self-styled interim president of Venezuela Juan Guaidó, who is backed by the US and UK governments. Given the multiple developments in this saga over the last few years and the complexity of the matter, a recap is in order.

50 tonnes at the Bank of England

From 1980 until 2011, the BCV had 99.2 tonnes of gold stored at the Bank of England. For details, see the BullionStar article from May 2015 titled "[Venezuela's Gold Reserves – Part 1: El Oro, El BCV, y Los Bancos de Lingotes](#)".

Between late 2011 and early 2012, the BCV conducted a famous gold repatriation operation, flying 160 tonnes of gold bars that were held abroad, back to Caracas in Venezuela to be stored in the vaults of Venezuela's central bank. Following the completion of that gold repatriation in January 2012, this still left 4,089 of BCV's Good Delivery gold bars stored in the Bank of England's vaults (about 50.8 tonnes).

For details of the above, see the BullionStar article from May 2015, titled "[Venezuela's Gold Reserves – Part 2: From Repatriation to Reactivation](#)".

Sometime after 2012 and until 2018, the BCV then began entering various gold swap transactions, including those with Deutsche Bank and Citibank as counterparts, and also with the Bank for International Settlements (BIS) as a counterpart. To do this, the BCV used most of the gold that it held

in the Bank of England vaults in London as collateral for the gold swaps.

Deutsche Bank and Citibank Gold Swaps

One such transaction was a [\\$1.7 billion gold swap with Deutsche Bank](#), which the BCV let lapse in 2017, thus allowing Deutsche Bank to keep the gold that had been put up as collateral. This was somewhere between 30-40 tonnes of gold.

Another was a [gold swap transaction with Citibank](#), again with the BCV putting up gold as collateral. In April 2018, the BCV paid Citibank \$172 million to recover some of that gold from Citi which had been put up as collateral. That then left the BCV, as of April 2018, with a net total of 14 tonnes of gold held at the Bank of England (about 1125 Good Delivery gold bars).



Headquarters of the Venezuelan central bank (BCV) in Caracas, Venezuela

After the Citi gold swap was wound up in April 2018, the BCV then began asking for its gold back from the Bank of England. This is where it gets very interesting.

In November 2018, it became public knowledge that the Bank of England was stalling on the BCV's request to withdraw 14 tonnes of Venezuela's gold from London, with the Bank of England using bogus excuses such as transportation insurance costs and anti-money laundering concerns to not fulfill its withdrawal obligation on BCV's gold custody contract.

For details, see BullionStar article from 14 November 2018 titled "[Bank of England refuses to return 14 tonnes of gold to Venezuela](#)".

However, the real reason for stalling the BCV's gold withdrawal request was political – in the form of US State Department and US Treasury pressure that was put on the British Foreign office and HM Treasury to block Venezuela's gold withdrawal and repatriation plan. This stalling was designed to allow time to roll out [US sanctions against Venezuela in November 2018](#) and critically, to move the goalposts and change the rules of the game by allowing time for the Guaidó team (backed by the US

and UK) to enter the arena so as to try to win control of the remaining 14 tonnes of BCV gold at the Bank of England.

Blocking tactics included the following. On 30 November 2018, two high profile politicians from the Venezuelan political opposition, Julio Borges and Carlos Vecchio, wrote a letter to the then Governor of the Bank of England, Mark Carney, asking the Bank of England to refuse the gold withdrawal request by the BCV.

At the same time, UK Government officials fronted by the “Venezuela All-Party Parliamentary Group (APPG)” attempted to block a meeting between the Bank of England and a Venezuelan team comprising BCV president Calixto Ortega Sánchez and Venezuelan finance minister Simón Zepa Delgado, who had flown over from Caracas to London in early December.

Although that meeting went ahead, the Bank of England again refused the gold withdrawal request of Ortega Sánchez and Delgado. For more details, see BullionStar article dated 18 December 2018 and titled “[Venezuela's gold in limbo amid tug-of-war at the Bank of England](#)”.

BCV Ups the Ante – 31 Tonnes in Play

December 2018 also saw Venezuela’s central bank up the stakes when it closed out another gold swap transaction with Deutsche Bank, with the BCV paying cash back to Deutsche in return for 17 tonnes of gold which the BCV had put up as loan collateral in 2015. This gold swap closeout thereby boosted the total gold holdings of the BCV at the Bank of England **from 14 tonnes to 31 tonnes**, more than doubling the amount of gold which the BCV now laid claim to in the Bank of England London vaults.



Gold bar storage at the Bank of England – Each group of bars marked in yellow is approximately 1 tonne (80 bars).

Note, it appears that the BCV added to its 50 tonnes of gold held at the Bank of England some time between 2012 and 2015 since the amount of gold connected to gold swaps with Deutsche Bank and Citibank appears to have at times exceeded 50 tonnes. It therefore looks like the BCV at some point flew some of the gold bars back from Venezuela to London that had been repatriated to Caracas in 2011-2012.

The stalling by the Bank of England also bought time before Maduro's new presidential term began on 10 January 2019, after which the US political rhetoric was upped against Maduro and little-known Juan Guaidó (the then national assembly leader in Venezuela's parliament), was claimed to be interim Venezuelan president by a US-UK led group of countries.

By January 2019, it also became clear who in the US Government had been lobbying the UK government when Bloomberg published an [article](#) which revealed that "*The Bank of England's decision to deny Maduro officials' withdrawal request comes after top U.S. officials, **including Secretary of State Michael Pompeo and National Security Adviser John Bolton**, lobbied their U.K. counterparts to help cut off the regime from its overseas assets*".

Once Guaidó entered the picture, he too began writing letters to the then British prime minister Theresa May and the then Bank of England governor Mark Carney. In his letters, Guaidó claimed that Venezuela's Maduro aimed to sell the BCV gold. – "*I am writing to ask you to stop this illegitimate transaction*" said the Guaidó letters, according to Reuters.

Remarkably, Guaidó's letter to Theresa May was his first letter ever to a foreign head of government, which shows the desperation of the US-UK states in attempting to block access to the 31 tonnes of BCV gold in London.

The UK Strategy – Recognition of Guaidó

As part of undermining Maduro and the BCV, the UK Government (Her Majesty's Government) through its Foreign Office, then released a [statement](#) on 4 February 2019 saying that it recognised Juan Guaidó as interim President of Venezuela. This then gave the Bank of England the excuse to refuse the BCV's gold withdrawal request saying that the BCV had not provided sufficient evidence of the authority of the BCV to issue instructions to the Bank of England, and also that the representatives of Guaidó (as claimed interim President of Venezuela and recognised by the UK Government) had also given gold withdrawal instructions.

By late January 2019, Bloomberg reported that communications between the BCV and the Bank of England had broken down:

“talks were unsuccessful, and communications between the two sides have broken down since. Central bank officials in Caracas have been ordered to no longer try contacting the Bank of England. These central bankers have been told that Bank of England staffers will not respond to them, citing compliance reasons, said a Venezuelan official...”

For details of the above, see the BullionStar article from 30 January 2019 titled [“Bank of England tears up its Gold Custody contract with Venezuela’s central bank”](#).

BCV’s High Court action

Fast forward to May 2020, and on 14 May 2020 in the High Court of England and Wales, lawyers for the Banco Central de Venezuela (BCV), as claimant, [filed a claim](#) against the Governor And Company Of The Bank Of England as defendant, to secure the release of its gold, or alternatively to be paid the sum of Euro 930 million (about US\$ 1 billion).

In it’s claim, the BCV stated that by refusing the gold withdrawal request of the BCV, the Bank of England had breached its contractual obligations and that the refusal was a breach of a bailment contract by the Bank of England.

C. The Accounts

8. On 12 August 2008, BoE agreed in writing to open a gold set aside account in BCV’s name [A/I]. BCV now has two gold accounts with BoE, namely (i) account 217 Banco Central de Venezuela and (ii) account 571 Banco Central de Venezuela number 2 (together, the “Accounts”).

BCV gold accounts at the Bank of England – Accounts 217 & 571. [Source](#)

The claim also revealed that since 12 August 2008, the Bank of England had maintained a “*gold set-aside account*” in BCV’s name, and that as of 14 May 2020, the BCV had two gold accounts with the Bank of England, “*namely (i) account 217 Banco Central de Venezuela and (ii) account 571 Banco Central de Venezuela number 2 (together, the “Accounts”).*”

When this High Court case was heard over 22 – 25 June 2020, the hearing hinged on deciding who had authority to give instructions to the Bank of England to withdraw the Venezuelan gold, a) the Board of the BCV which had been appointed by Maduro (the Maduro Board), or b) a competing Ad Hoc Administrative Board of the BCV which had been appointed by Guaidó (the Guaidó Board). The case also included a sum of \$120 million which Deutsche Bank was required to pay to the BCV on one of the gold swaps, and which was held by Receivers, with Deutsche also claiming that it did not know which ‘Board’ of the BCV to take instruction from.

On 2 July 2020 in his [judgement](#), the judge in the High Court case, Sir Nigel Teare, said that the UK Government had, through it’s 4 February 2019 statement, legally recognised Guaidó as constitutional interim president of Venezuela. This would then have allowed the Guaidó Board to initiate a gold

withdrawal request from the Bank of England.

After the judgement was provided in draft form to the lawyers of the two sides, the Maduro Board lawyers asked the Court (judge) to state “explicitly” whether the recognition by Her Majesty’s Government (HMG) of Guaidó was ‘de jure’ (legally recognised regardless of whether it exists in reality) or ‘de facto’ (describing a situation which exists in reality), or both.

Teare replied that while HMG had recognised Guaidó as constitutional interim President of Venezuela, which was consistent with a de jure recognition, that irrespective of the basis for the recognition, HMG had “*unequivocally recognised Guaidó as President of Venezuela*”, meaning that HM Government no longer recognised Maduro as President of Venezuela.

However, lawyers for the BCV Maduro Board immediately then said that they were going to appeal the judgement in the Court of Appeal, which they promptly did.

From the High Court to the Court of Appeal

In August 2020, the Court of Appeal granted the Maduro Board permission to appeal on the recognition issue (i.e, who is recognised to have authority to give the Bank of England and Deutsche Bank instructions), and in September 2020, the appeal hearing took place in the Court of Appeal between 22 and 24 September 2020 in front of three law lords, namely, Lord Justice Lewison, Lord Justice Males and Lord Justice Phillips.

The Court of Appeal then published its [judgement](#) on 5 October 2020. In it’s judgement, the Court of Appeal overturned the judgment of the High Court which had “*unequivocally recognised Guaidó as President of Venezuela*”, with Lord Justice Males of the Appeal Court saying that the UK’s recognition of Guaidó “*is to my mind ambiguous, or at any rate less than unequivocal*”.

This Appeal Court ruling then sent the Maduro vs Guaidó case back to the High Court.

However, the Guaidó Board then went to the Supreme Court asking for permission to appeal the Court of Appeal judgement.



Court 1 of the Supreme Court, London

From the Court of Appeal to the Supreme Court

On 9 December 2020, the Supreme Court [granted](#) the Guaidó Board permission to appeal. The High Court then ordered that its proceedings involving the BCV gold should be stayed (suspended) pending the outcome of the Guaidó Board appeal to the Supreme Court. The Supreme Court hearing was then scheduled for July 2021,

In early January 2021, the European Union (EU) [announced](#) that it did would not continue to recognise Guaidó as Venezuela's president because Guaidó had lost his position as head of the Venezuelan National Assembly during December 2020 elections, when Maduro regained control of the Venezuelan Parliament.

Five Lords A-Leaping

The [Supreme Court appeal hearing](#) began in London on 19 July 2021 and ran for 3 days until 21 July (with 22 July held in reserve if needed), the appellant being the "Guaidó Board" of the Central Bank of Venezuela", and the respondent being the "Maduro Board" of the Central Bank of Venezuela.

There were no less than five justices (judges) overseeing the hearing, namely, Lord Reed, Lord Hodge, Lord Lloyd-Jones, Lord Hamblen, and Lord Leggatt. The hearing heard the appeal from Guaidó's side, as well as a cross-appeal from the BCV's Board.

Like clockwork, the UK Government continued its intervention, coming out with a [statement on 19 July](#) through its UK Foreign Office, reiterating that the UK Government (HM Government) recognises Guaidó as president of Venezuela. In fact, a UK Foreign Office representative also made submissions

to the Court during the Supreme Court hearing.

The basic goal of the Supreme Court hearing was to examine the nature, scope and effect of the UK Government having recognised Guaidó as interim president, and to determine was it justifiable based on the reality on the ground in Venezuela (with Maduro still in power), and whether there any valid challenge in legal terms that could be made about the recognition of Guaidó by the HM Government.

Anyone interested in viewing the proceedings which took place in the Supreme Court hearing between 19 July and 21 July can actually do so, as there are six videos of the proceedings [at this link](#), i.e. a video of each of the morning and afternoon sessions over 19 – 21 July.

This Supreme Court hearing is now awaiting judgment. As soon as the judgment is handed down by the judges, it will appear on the future judgements page of the Supreme Court website [here](#). It will also appear on the BAILII legal judgements database [here](#). While Supreme Court judgments in the UK can come out anywhere between 3 and 9 months after an appeal hearing, the high profile nature of the BCV – Bank of England – Maduro – Guaidó case means that the judgement is sure to be handed down sooner rather than later and maybe as soon as September or October.



Nicolas Maduro holds a 400 oz wholesale gold bar

21st Century Piracy?

On 21 July, Maduro [commented](#) on the Venezuelan gold in London, saying that the situation of the BCV gold being blocked by the Bank of England amounts to a case of “*piracy of the 21st century because that money is from Venezuela.*” He continued:

“They are stealing Venezuela’s gold reserves, which belong to the Central Bank of Venezuela, they do not belong to the Government, they belong to an autonomous institute

[the BCV] ... *more than US\$ 2 billion in gold, the gold bars deposited in the Bank of England*

On the US / UK claims backing Guaidó, Maduro said that:

“they invent a government of Narnia, a government of fantasy, to steal companies, money, accounts and to steal gold from Venezuela.”

Conclusion

While the Supreme Court judgment will determine who has the authority to withdraw and use 31 tonnes of BCV gold stored under custody at the Bank of England, this case will also have far reaching international implications for all sovereign assets held in the United Kingdom, and particularly monetary gold.

A ruling in favour of Guaidó will mean that the UK Government can at will seize control over state assets of foreign governments held at the Bank of England and elsewhere, and such a ruling would send shockwaves internationally about the notion of sovereign property rights, and how they are treated in the City of London, and wider England and the UK.

A ruling in favour of Guaidó also creates a worrying situation where a government executive (HM Government) can intervene and interfere into the judiciary using claims which have no basis in reality – i.e. Guaidó has no control over the Venezuelan central bank, nor its employees, nor is he even recognised by the EU as president of Venezuela, nor is he recognised as president by a vast list of countries including China and Russia, nor is he even leader of the Venezuelan national assembly anymore.

Over 70 sovereign nations hold gold in storage at the Bank of England including many nations in South and Central America and across the Middle East and Asia. If the Supreme Court rules against the BCV and in favour of Guaidó, and creates this precedent that sovereign gold reserves are not safe in London, expect the sound of many phones ringing at the Bank of England from central banks around the world trying to line up their gold withdrawal and repatriation requests. That in itself would be a sight to behold.

While you might think that the five lords a-leaping in the Supreme Court in their judgement will take these critical sovereign property right concerns into account, don't underestimate the connections between the various strands of the British Establishment across politics, judiciary and the City of London, where the 'fraternities' and undisclosed connections between the 'brothers' will nearly always be more important than what how an outsider would view the situation.

It would therefore not be surprising if the law lords of the Supreme Court side with the Foreign Office, the Bank of England, and the US State Department, who are all working on the same side to prevent the BCV getting its hands on 31 tonnes of the BCV's gold bars (worth approximately US \$ 1.8 billion at current spot price).

Moral of the story for central banks – Don't hold gold at the Bank of England if you actually ever want to withdraw it.

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