

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

VENEZUELA US SRL,

Petitioner,

v.

BOLIVARIAN REPUBLIC OF VENEZUELA,

Respondent.

Civil Action No. 1:22-cv-03822-JMC

**NOTICE AS TO REQUEST FOR SERVICE
OF PROCESS PURSUANT TO 28 U.S.C. § 1608(a)(4)**

Petitioner Venezuela US SRL (“VUS”), by and through its counsel, files this Notice requesting service of process pursuant to diplomatic service by the Clerk of Court.

1. On December 27, 2022, VUS commenced this action to recognize and enforce an arbitration award (the “Award”), dated November 4, 2022, rendered in VUS’s favor and against the Bolivarian Republic of Venezuela (“Venezuela”). *See* Pet. to Recognize and Enforce a Foreign Arbitral Award, Dec. 27, 2022, ECF No. 1. The Award arose out of an arbitration seated in The Hague, Netherlands, captioned *Venezuela US, S.R.L. v. The Bolivarian Republic of Venezuela*, PCA Case No. 2013-34. *Id.* at 1–2.

2. Because Venezuela is a foreign state, VUS is required to effect service in the manner prescribed by the Foreign Sovereign Immunities Act (“FSIA”). *See* 28 U.S.C. § 1608(a); Fed. R. Civ. P. 4(j)(1). The first method of service under the FSIA allows for delivery “in accordance with any special arrangement for service between the plaintiff and the foreign state

...” 28 U.S.C. § 1608(a)(1). As no “special arrangement for service” exists between VUS and Venezuela, this method of service was unavailable.

3. VUS therefore attempted to serve the Summons and Petition on Venezuela under 28 U.S.C. § 1608(a)(2). VUS first attempted to serve Venezuela pursuant to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Nov. 15, 1965, 20 U.S.T. 361 (the “Hague Service Convention”), to which the United States and Venezuela are both parties. VUS sent all documents and translations required under the Hague Service Convention to Venezuela’s Central Authority via DHL on January 23, 2023. *See* Ex. A (DHL Tracking Results for Hague Service). DHL attempted to deliver the package twice, on January 31 and on February 15, 2023, but Venezuela’s Central Authority refused to accept the package. *See id.* at 1–2.

4. In attempting service under the Hague Service Convention, VUS satisfied its obligation under 28 U.S.C. § 1608(a)(2) to serve Venezuela “in accordance with an applicable international convention on service of judicial documents.” 28 U.S.C. § 1608(a)(2). VUS was thus entitled to move on to the next available method of service provided for by the FSIA. However, Venezuela is one of the few countries that is party to more than one international convention on service of judicial documents. Because VUS is not aware of any case law dealing with service on such countries where a Central Authority refuses to accept documents for service under the Hague Service Convention, VUS also attempted to serve Venezuela under 28 U.S.C. § 1608(a)(2) pursuant to the Inter-American Convention on Letters Rogatory, Jan. 30, 1975, O.A.S.T.S. No. B-36 (the “Inter-American Convention”) and the Additional Protocol to the Inter-American Convention on Letters Rogatory, May 8, 1979, O.A.S.T.S. No. B-46 (the “Additional Protocol” and, together with the Inter-American Convention, the “IACAP”), to which the United States and

Venezuela are both parties. *See* Mot. for Issuance of a Letter Rogatory, Mar. 21, 2023, ECF No. 7. The Court granted the Motion for Issuance of a Letter Rogatory, *see* Min. Order, Mar. 28, 2023, and issued the Letter Rogatory on March 28, 2023, *see* Letter Rogatory, Mar. 28, 2023, ECF No. 9. On April 4, 2023, VUS sent all required documents and translations to ABC Legal Services, the U.S. Central Authority’s designated contractor for effecting service under IACAP. *See* Ex. B (FedEx Tracking Results). Those documents and translations arrived at ABC Legal Services on April 5, 2023. *See id.* ABC Legal Services then attempted to serve process on Venezuela pursuant to the IACAP. *See* Ex. C (Declaration of Karen Adams), ¶ 4. The package arrived in Venezuela on April 22, 2023. *See* Ex. D (DHL Tracking Results for IACAP Service). However, the Venezuelan Central Authority again refused to accept the package. Ex. C (Declaration of Karen Adams), ¶ 4. A Certified International Specialist from DHL confirmed that the package could not be delivered because the Venezuelan Central Authority is not receiving packages originating from the United States. *Id.* ¶ 5. ABC Legal has also confirmed that it has “had difficulty in getting service of process packages delivered to the Venezuelan Central Authority in several other cases” in the past three years. *Id.* ¶ 6.

5. Service is not possible pursuant to 28 U.S.C. § 1608(a)(3) because Venezuela has formally objected to service by mail under the Hague Service Convention. *See* Hague Conference on Private International Law, *Declaration/Reservation/Notification for the Bolivarian Republic of Venezuela*, ¶ 3, <https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=429&disp=resdn> (“With regard to Article 10(a): The Republic of Venezuela does not agree to the transmission of documents through postal channels.”); *see also* *ConocoPhillips Petrozuata B.V. v. Bolivarian Republic of Venezuela*, No. 1:19-CV-0683 (CJN), 2022 WL 3576193, at *5 (D.D.C. Aug. 19, 2022) (“As to [28 U.S.C. § 1608(a)(3)], Petitioners

assert that it is inapplicable because Venezuela has formally objected to service by mail. Other Courts in this District have concluded that, in these circumstances, it is appropriate to move to [28 U.S.C. § 1608(a)(4)], and the Court agrees.” (citations omitted)).

6. Accordingly, VUS respectfully requests that VUS’s service attempts via 28 U.S.C. § 1608(a)(2) be noted on the Court’s docket so that VUS may proceed to serve Venezuela with service of process pursuant to 28 U.S.C. § 1608(a)(4). VUS will also request that the Clerk of Court initiate service of the Summons, Petition, Notice of Suit, and their Spanish translations “by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services.” 28 U.S.C. § 1608(a)(4). The Secretary of State shall then take steps to effect service through diplomatic channels pursuant to 28 U.S.C. § 1608(a)(4).

7. VUS will arrange to have the necessary service documents delivered to the Clerk of Court for the initiation of service via 28 U.S.C. § 1608(a)(4).

Dated: New York, New York
June 29, 2023

Respectfully submitted,

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