

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

VENEZUELA US SRL,

Petitioner,

v.

BOLIVARIAN REPUBLIC OF VENEZUELA,

Respondent.

Civil Action No. 22-cv-3822-JMC

SUPPLEMENTAL DECLARATION OF ELLIOT FRIEDMAN

I, Elliot Friedman, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney admitted to practice before this Court and a member of the law firm Freshfields Bruckhaus Deringer US LLP (“Freshfields”). I am counsel for Petitioner Venezuela US SRL (“VUS” or “Petitioner”). I make this declaration based on my personal knowledge, my review of the record of the underlying arbitration, and the exhibit attached to this Declaration.

2. I respectfully submit this declaration in further support of VUS’s Petition to Recognize and Enforce a Foreign Arbitral Award (the “Petition”).

3. This declaration supplements the declaration that I submitted with the Petition dated December 27, 2022, ECF No. 1-1 (“First Declaration” or “First Friedman Decl.”). Capitalized terms not defined herein are as defined in my First Declaration.

4. I have reviewed Venezuela’s Memorandum in Opposition to Petition to Recognize and Enforce a Foreign Arbitral Award, dated December 11, 2023, ECF No. 20 (“Opposition” or “Opp.”) and the Declaration of Eloy G. Barbará de Parres dated December 8,

2023, ECF No. 20-1 (“Barbará Declaration” or “Barbará Decl.”). Mr. Barbará is a member of the law firm Curtis, Mallet-Prevost, Colt & Mosle LLP (“Curtis”), which represents Venezuela in this proceeding and at times represented Venezuela in the Arbitration. *See* Barbará Decl. ¶¶ 1, 3.

5. As explained in my First Declaration, the Arbitration was divided into three phases. First Friedman Decl. ¶¶ 3, 8–10. The first phase addressed one of Venezuela’s jurisdictional objections and culminated in the Interim Award dated July 26, 2016. *See* First Friedman Decl., Ex. B, ECF No. 1-3 (“Interim Award”). The second phase addressed (i) Venezuela’s remaining jurisdictional objections, and (ii) the merits of VUS’s claims and Venezuela’s liability, culminating in the Partial Award dated February 5, 2021. *See* First Friedman Decl., Ex. C, ECF No. 1-4 (“Partial Award”). The third phase addressed the quantum of damages that Venezuela owed for its breach of the Treaty and resulted in the Final Award dated November 4, 2022. *See* First Friedman Decl., Ex. A, ECF No. 1-2 (“Final Award”).

6. During the second phase of the Arbitration, there was an approximately three-year interval between the final submission by the parties (their respective claims for legal fees and other costs of arbitration) in February 2018 and the issuance of the Partial Award on February 5, 2021. *See* Partial Award ¶¶ 253–56; *id.* ¶¶ 47–71 (general procedural history).

7. During that three-year interval, both VUS and Venezuela changed counsel teams. VUS appointed Freshfields to replace a different law firm in February 2020. *Id.* ¶ 1. Notice of that change was given to opposing counsel at the time (Curtis), as is standard practice. Venezuela appointed Guglielmino & Asociados S.A. (“Guglielmino”) to replace Curtis as of July 1, 2020. *Id.* ¶ 2. Notice of that change was likewise given to opposing counsel at the time (Freshfields), as is standard.

8. Apart from entering their respective notices of appearance, neither Guglielmino nor Freshfields made any submissions to the Tribunal prior to the issuance of the Partial Award. All of Venezuela's submissions concerning jurisdiction and liability (the first and second phases) were made by the law firm Curtis. Guglielmino and Freshfields made submissions exclusively during the third, quantum phase that commenced with the issuance of the Partial Award.

9. In his declaration, Mr. Barbará refers to various political events that took place in Venezuela in 2018 and 2019. *E.g.*, Barbará Decl. ¶¶ 6–7. No issues relating to those events were ever raised before the Tribunal in the Arbitration. For example, Mr. Barbará suggests that Curtis ceased to act at the instruction of the Maduro regime sometime in early 2019, Barbará Decl. ¶¶ 7, 12, but Curtis—which was counsel of record for Venezuela at that time and continued to be so until July 2020—did not inform the Tribunal of that development.

10. In its Opposition, Venezuela states that “the arbitral tribunal allowed the unrecognized, illegitimate Maduro regime to replace the Republic’s counsel to the exclusion of the Interim Government.” *Opp.* at 2. That statement is not accurate: the Tribunal did not “exclu[de]” anyone, because the question of which regime was authorized to represent Venezuela was never raised before the Tribunal. If it had been, it would have been recorded in the detailed procedural history sections of the Partial Award and/or the Final Award. *See* Partial Award ¶¶ 3–71; Final Award ¶¶ 7–34.

11. In other arbitral proceedings of which I am aware, the Interim Government (to use Venezuela’s term in this proceeding) sought to be included in proceedings. Among other cases, this included the ICSID annulment proceeding in *ConocoPhillips Petrozuata B.V. v. Bolivarian Republic of Venezuela*, ICSID Case No. ARB/07/30. A true and correct copy of the ICSID annulment committee’s Order on the Applicant’s [*i.e.*, Venezuela’s] Representation dated April

3, 2020 is attached to this Supplemental Declaration as Exhibit A. The relevant procedural history and the Interim Government's position are reflected in paragraphs 1–5, 17–20 and 27 of that decision.

12. It remains the case that Venezuela has not paid VUS any portion of the Final Award, as noted in my First Declaration. VUS has also still not received payment of any part of the Final Award from Petroritupano or CVP.

13. Post-award, prejudgment interest has continued to accrue on the amounts set out in paragraph 12 of my First Declaration. As of December 31, 2023, the full value of the Final Award was US\$ 124,162,490 and EUR 654,671. These amounts are composed of: (i) US\$ 58,870,898 in compensation for Venezuela's breach of the Treaty, (ii) US\$ 46,624,436 in pre-award interest, (iii) US\$ 15,244,512 in post-award, prejudgment interest on the compensation for Venezuela's breach of the Treaty, (iv) US\$ 3,215,534.99 in legal fees, (v) US\$ 207,109 in post-award, prejudgment interest on legal fees, (vi) EUR 615,056.47 in arbitration costs, and (vii) EUR 39,615 in post-award, prejudgment interest on arbitration costs. Items i, ii, iv and vi are the same as in my First Declaration. Items iii, v and vii have increased as interest has continued to accrue.

14. I declare under penalty of perjury that the foregoing is true and correct.

Executed January 5, 2024 in New York, New York.

/s/ Elliot Friedman
Elliot Friedman