ALERT MEMORANDUM

What Remains of Venezuela's Bilateral Investment Treaty Network—What Prospective Investors Should Know

June 17, 2026

Following recent developments in Venezuela, the United States government has moved aggressively to reopen the country to foreign investment. The January 9, 2026 Executive Order, which creates protected deposit accounts for Venezuelan oil revenues (the Executive Order), is the most concrete step of several that the Trump administration has taken aimed at protecting Venezuelan oil proceeds and promoting such investment. The United States Government has also eased sanctions on doing business with Venezuela through a series of OFAC General Licenses[1], facilitated negotiations between the Interim Venezuelan Government and prospective investors, removed interim President Delcy Rodriguez from the SDN list, authorized the Venezuelan Government to hire advisors to consider a possible debt restructuring,[2] and generally encouraged U.S. and other investors and strategics to invest in Venezuela.

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[1] Although comprehensive blocking sanctions are still in place against the Government of Venezuela and PdVSA, OFAC has issued a series of general licenses ("GL") easing sanctions across Venezuela's oil, gas, electricity, petrochemical, mining, and financial sectors, including GL 46C (authorizing certain downstream activities involving Venezuelan-origin oil and petrochemical products), GL 47A (authorizing the sale of U.S.-origin diluents), GL 48B (authorizing the supply of certain goods and services for the exploration, development, or production of oil, gas, or petrochemical products in Venezuela, or for the generation, transmission, storage, or distribution of electricity in Venezuela),GL 50B (authorizing operations by named historic investors), and GL 49A (authorizing negotiation of and entry into contingent contracts relating to new investment in oil, gas, petrochemical products, or electricity sector operations in Venezuela), GL 56 (authorizing transactions incident and necessary to engaging in commercial negotiations of contingent contracts with the Government of Venezuela), GL 52A (authorizing transactions with PdVSA), and GL 58 (authorizing certain professional services related to potential debt restructuring).. Many of these GLs require contract terms to be construed and interpreted in accordance with the laws of a state or other jurisdiction within the United States and require dispute resolution proceedings to occur in the United States, United Kingdom, France, or Singapore. Each GL carries additional compliance obligations, which should be reviewed in full before entering into transactions. For more details, *see* Cleary Foreign Investment and International Trade Watch.

[2] *See* GL 58, Authorizing Certain Services to the Government of Venezuela in Connection with Potential Debt Restructuring, issued May 5, 2026.

However, some investors remain wary given Venezuela's prior expropriations and other actions by the Chavez and Maduro Governments. From 2007-2012 Venezuelan nationalizations in the oil and gold industries produced over $20 billion in arbitral awards that remain largely unsatisfied, and Venezuela's 2012 denunciation of the ICSID Convention raised further doubts about whether credible investment dispute resolution remains available.

So how cautious should prospective investors in today's Venezuela be? While the durability of new investment in Venezuela is a complicated subject and will be influenced by many factors, Venezuela's current investment landscape does include an extensive network of bilateral investment treaties which remain in force, many with dispute resolution pathways that survive Venezuela's ICSID exit. With strategic structuring, these treaties can still provide enforceable protections for new capital.

ICSID Awards Against Venezuela

In 2007, President Chavez announced the nationalization of foreign-owned oil projects, resulting in Petroléos de Venezuela (PdVSA) seizing majority ownership and operational control of projects owned by ConocoPhillips, ExxonMobil, and Chevron, among others.[3] Similarly, President Chavez began to seize foreign-owned gold mining projects in 2008, culminating in the nationalization of Venezuela's gold industry in 2011. Following the expropriation of foreign-owned oil and gold projects, Venezuela became subject to a number of investment treaty disputes, largely stemming from bilateral investment treaties (BITs) in arbitrations convened under the auspices of the International Centre for Settlement of Investment Disputes (ICSID).

The largest and most consequential investment dispute arising from these nationalization efforts is the *ConocoPhillips* case concerning the Hamaca, Petrozuata, and Corocoro/Gulf of Paria projects. Following the nationalization wave in 2007, Conoco initiated ICSID proceedings under the Netherlands-Venezuela BIT. In March 2019, the tribunal awarded Conoco approximately $8.7 billion plus interest for unlawful expropriation, and on January 22, 2025, an ad hoc committee dismissed Venezuela's annulment application, leaving the award intact. In parallel, Conoco secured a separate, multibillion-dollar ICC award on contractual claims against PdVSA. Conoco has secured U.S. court judgments recognizing both awards, which remain unsatisfied.

ExxonMobil's *Mobil/Cerro Negro* arbitration likewise stems from Chavez's 2007 nationalization measures. In October 2014, an ICSID tribunal awarded Exxon roughly $1.6 billion, although this award was later partially annulled. In July 2023, a resubmission tribunal issued a further award, and U.S. courts have entered judgment recognizing portions of Exxon's ICSID award, which remains unpaid.

Enforcement efforts on these awards to date have primarily focused on CITGO, the so-called "crown jewel" of PdVSA's holdings. These enforcement efforts originated with Crystallex, a Canadian gold mining and exploration company that struck a deal with President Chavez in 2002 to develop a gold project in the Las Cristinas region. In 2008, however, Venezuela denied environmental permits, rescinded Crystallex's contract, and seized the Las Cristinas project. The losses stemming from the Las Cristinas project forced Crystallex into bankruptcy and led the company to proceed with arbitration under the ICSID Additional Facility Rules. In 2016, the tribunal found that Venezuela had breached the Canada–Venezuela BIT and awarded Crystallex approximately $1.2 billion plus interest. When Venezuela refused to pay, Crystallex pursued enforcement in U.S. courts and, in 2018, became the first creditor of Venezuela to obtain a ruling that PdVSA is Venezuela's alter ego. This ruling enabled attachment of PdVSA's shares in PDV Holding, the U.S. parent of CITGO. After Crystallex's success in attaching the PDV Holding shares, numerous other creditors followed suit, resulting in a court-supervised

[3] As of 2026, Chevron is the only U.S. petrochemical company still operating within Venezuela's oil industry, under a joint venture structure in which PdVSA maintains majority control of each project.

sale process that is expected to satisfy some of the outstanding arbitral awards, including Crystallex's, through the forced sale of CITGO.

Other consequential awards and judgments have followed the same trajectory. Rusoro Mining obtained an ICSID Additional Facility award approaching $1 billion plus interest over gold nationalizations, and Gold Reserve secured an approximately $713 million ICSID Additional Facility award. Other claimants have also prevailed on expropriation and related treaty claims.[4] Venezuela has largely resisted or delayed payment, and creditors have turned to enforcement efforts in the U.S. and other courts, including the court-supervised sale of CITGO, as well as attachment efforts focused on certain Venezuelan accounts held by European banks.

Venezuela Leaves ICSID

Following these and other high-profile investment arbitrations, Venezuela denounced the ICSID Convention on January 24, 2012. The denunciation took effect six months later, on July 25, 2012. Proceedings initiated before the effective date — *i.e.*, when consent to ICSID arbitration was perfected — continued under the ICSID Convention. Disputes that arose after the denunciation's effective date, however, could not be brought in arbitration proceedings under the ICSID Convention.

New investors in Venezuela, however, are not without recourse to protect their investments. Many Venezuela BITs include fallbacks to ICSID's Additional Facility or to ad hoc UNCITRAL arbitration. In 2022, ICSID modernized and expanded its Additional Facility Rules, now expressly permitting arbitration even when one or both parties are not ICSID Contracting States. For investors, this means that viable international arbitration fora remain available notwithstanding Venezuela's ICSID exit.

The Modern Picture

Venezuela's treaty network still provides meaningful protections for new investments, but investors must understand the contemporary landscape, tread carefully, and remain cognizant of the risk of Venezuela's nonpayment or resistance. Venezuela still maintains BITs with capital-exporting States, which auto-renew on multi-year cycles, and include standard survival clauses that extend protections for a period even after termination.[5] As a result, protections will largely remain available for qualifying investors and investments and can be accessed through proper investment structuring. Investors, however, must proceed with an eye to enforcement of any future awards, given Venezuela's history of contesting and delaying payment of large awards.

Substantively, modern Venezuela BITs commonly provide crucial protections that establish enforceable legal rights and remedies against host state conduct, including the following:

- Fair and equitable treatment (FET) obligates the State to act transparently, non-arbitrarily, and consistently with the investor's legitimate expectations. FET is often the most litigated standard and protects against sudden regulatory changes that undermine the economic basis of an investment.
- Full protection and security requires the State to exercise due diligence to protect the physical safety of investments and prevent damage.
- Protection against unlawful expropriation (both direct seizures and indirect measures tantamount to expropriation) guarantees that if the State takes an investor's property, it must do so for a public purpose, in a non-discriminatory manner, with due process, and against prompt,

[4] Other claimants include Tenaris/Talta, Koch, and OI European Group. The ICSID awards that these claimants won against Venezuela total over $1.1 billion.

[5] This includes, for example, Spain (1997, auto-renewing every two years with six-months' notice), the United Kingdom (1996, one-year termination notice), Portugal (1995, auto-renewing every five years with one-year notice), Switzerland (1995, one-year notice), Canada (1998, one-year notice), Belgium-Luxembourg (2004, auto-renewing every ten years since 2014 with six-months' notice), Russia (2009, auto-renewing every five years since 2019 with one-year notice), and China (2025, initial ten-year term, then one-year notice), among others.

adequate, and effective compensation at fair market value — permitting investors to recover the full economic value of what was taken.

- National treatment and most-favored-nation treatment requiring the State to treat foreign investors no less favorably than it treats its own nationals or investors from third countries, whichever standard is more favorable.
- Free transfer of capital and returns protects against currency controls by guaranteeing investors can repatriate profits, dividends, and proceeds without delay.
- Umbrella clauses, where included, elevate contractual commitments into treaty obligations, meaning that a State's breach of an investment contract can become a treaty violation subject to international arbitration, giving investors an additional layer of protection beyond domestic contract law.

Procedurally, dispute resolution options typically include ICSID for legacy disputes where consent was perfected before Venezuela's denunciation took effect, ICSID Additional Facility where ICSID is not available, and ad hoc UNCITRAL arbitration. The choice among these fora carries significant enforcement consequences. An award rendered under the ICSID Convention is directly enforceable in any Contracting State as if it were a final judgment of that State's own courts, and is not subject to the grounds for refusing recognition available under the New York Convention. An ICSID Additional Facility or UNCITRAL award, by contrast, is not an ICSID Convention award; it must be recognized and enforced through the ordinary channels under the New York Convention, like any other international arbitral award.

As a result, investors should structure their investments carefully to ensure coverage under favorable BITs, particularly those that require only valid incorporation in a treaty party State without additional business activity requirements. Strategic nationality planning typically involves establishing holding companies in jurisdictions with investor-friendly BIT networks, such as Spain or the Belgium-Luxembourg Economic Union.[6] Pre-investment structuring is critical because tribunals have generally rejected post-dispute restructuring as impermissible treaty shopping, meaning investors should establish their treaty-protected structure before disputes arise or become foreseeable.

In recent weeks, Venezuela has demonstrated its desire to provide renewed protections for foreign investors. Emerging hydrocarbons reform legislation signals a potential reopening to neutral dispute resolution and bankable project mechanics. Draft legislation indicates openness to alternative dispute resolution, including independent international arbitration, while leaving the seat, procedural rules, and institutional framework to be defined by regulation or contract — customization options that beckon to investors. Beyond dispute resolution, the hydrocarbons legislation points toward a broader package of investor protections while signaling renewed openness to investor-state dispute resolution mechanisms that resemble ICSID. In substance, this potential model for future legislation is preventative in that it reduces expropriation risk and improves bankability with finance-friendly features such as economic-equilibrium protections, more flexible commercialization and banking options, and clearer contract durations, renewal rights, and termination procedures. If the hydrocarbons legislation is to serve as any indication, Venezuela may be endeavoring to mitigate risks by giving investors credible, pre-dispute tools so investment projects are less likely to devolve into disputes. Combined with promises of ICSID-modeled investor-state dispute resolution, this could signal additional security to foreign investors.

While opportunities for investors in the Venezuela of January 2026 are promising, they must be considered against Venezuela's historical non-payment risk. Investors can still access meaningful treaty protections through ICSID Additional Facility and UNCITRAL pathways, and emerging legislation points towards

[6] In many instances, the Netherlands has been viewed as offering particularly attractive treaty protections; Venezuela, however, withdrew from its bilateral investment treaty with the Netherlands in 2008.

reinforcement of time-tested dispute resolution mechanisms attractive to investors. That risk should not be understated: Venezuela consistently ranks among the world's least compliant States in satisfying investment-treaty awards — recent surveys of compliance with investment-treaty awards have placed it at or near the top of the global rankings of unpaid awards, alongside States such as Spain, Russia, and Argentina — and it remains, after Argentina, the second-most frequent respondent in the history of ICSID. Investors must therefore weigh carefully whether Venezuela will follow through by honoring its commitments to investors both before and after disputes arise.

Venezuela's recent legislative proposals suggest an effort to address the underlying causes that generated decades of investment disputes rather than simply offering new forums to adjudicate similar claims. The Chavez-era expropriations stemmed from regulatory instability, uncompensated takings, discriminatory treatment, and restrictive currency controls that transformed operational investments into multi-billion dollar arbitration claims. The emerging hydrocarbons legislation attempts to mitigate these risks through structural protections. Economic equilibrium provisions are designed to prevent the arbitrary regulatory changes that formed the basis of fair and equitable treatment violations in cases like *ConocoPhillips*. Flexible commercialization and banking mechanisms respond to the currency control restrictions that amplified investor losses during the nationalization period. Clearer contract durations, renewal rights, and termination procedures address the ambiguities in prior agreements that allowed Venezuela to force renegotiation or seize foreign-owned projects without predetermined compensation terms. These preventative safeguards, if implemented as drafted, would complement rather than replace dispute resolution mechanisms by reducing the likelihood that disputes arise in the first instance.

Whether Venezuela will maintain these commitments beyond the current effort to attract foreign capital remains uncertain. The country's history includes prior periods of investor-friendly reforms that were later scaled back when political circumstances changed. Investors must therefore approach opportunities with clear-eyed assessment of both the potential protections and the enforcement challenges, structuring for treaty coverage while maintaining readiness to pursue collection efforts if disputes nonetheless materialize.

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