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Crystallex Wins US Confirmation of \$1.4B Arbitral Award Against Venezuela

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March 29, 2017 — Hughes Hubbard struck gold for Crystallex International Corp. when a D.C. federal judge confirmed a \$1.4 billion arbitration award against Venezuela’s government for wrongfully ousting the Canadian mining company from an operating contract.

On March 25, U.S. District Judge Rudolph Contreras confirmed the award that an arbitration tribunal under the World Bank’s International Centre for Settlement of Investment Disputes granted last year. Judge Contreras also dismissed Venezuela’s motion to vacate the award.

The ruling is a critical step towards enforcing the \$1.4 billion judgment against Venezuela’s assets in the U.S. In a separate proceeding, Crystallex has already initiated legal action against PDVSA for the “fraudulent transfer” of billions of dollars of Citgo assets out of the U.S.

The dispute began in 2011 when former Venezuelan President Hugo Chavez’s government terminated Crystallex’s exclusive 2002 contract to build, operate and exploit Las Cristinas, one of the largest untapped gold mines in the world.

Crystallex filed its claim in February 2011 under the Canada/Venezuela bilateral investment treaty (BIT) and the World Bank’s International Centre for Settlement of Investment Disputes Additional Facility Rules. Arbitration hearings began in 2013 and ended in 2015.

In April 2016, HHR helped Crystallex obtain a unanimous award worth \$1.39 billion from the Venezuelan government, one of the largest awards in the history of investment treaty arbitration. In July 2016, the Ontario Superior Court granted Crystallex’s petition to enforce the award in Canada.

In his ruling, Judge Contreras rejected Venezuela’s argument that the tribunal’s use of the market multiples method warranted vacating the award or that confirming the award would harm U.S. public policy on the sovereign right of states to regulate the environmental impact of industrial activities.

“The award does not interfere with Venezuela’s environmental rules or regulations, but only requires Venezuela to compensate Crystallex for the results of its inequitable actions and expropriation,” he wrote.

The HHR team included Meaghan Gragg, Andrew Schwenk, and Apoorva Patel. Carlos Ramos-Mrosovsky, who has now joined HHR, previously worked on the case at Freshfields Bruckhaus & Deringer.

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Meaghan Gragg

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