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Firm Leads BG Group to Supreme Court Triumph

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Hughes Hubbard & Reed helped British energy company BG Group win a big victory when the U.S. Supreme Court refused to give Argentina another chance to contest a \$185 million investment arbitration award.

On Nov. 3, 2014, the justices denied Argentina's petition challenging the award, ending a decade-long battle over the South American country's emergency measures during its financial crisis in the early 2000s. The rejection comes eight months after the Supreme Court voted 7-2 to overturn a D.C. Circuit decision and reinstate the award for BG Group.

BG Group won the award in 2007 after an arbitral tribunal found that the emergency law Argentina enacted after its economy collapsed in 2002 breached the UK-Argentina Bilateral Investment Treaty (BIT). But the D.C. Circuit ruled in 2012 that the three-member arbitration panel in Washington had exceeded its power by waiving a requirement in the BIT that investors must pursue 18 months of domestic litigation before seeking arbitration.

On March 5, the Supreme Court ruled that the federal appeals court in Washington should not have vacated the award, holding that nothing in the treaty overcame the normal assumption in US law that arbitrators rather than courts should decide disputes over the meaning of procedural conditions to arbitration.

On Aug. 19, Argentina filed petition for a writ of certiorari, urging the justices to settle what it described as a significant split among circuit courts regarding whether an arbitration tribunal's "manifest disregard of the law" provides a sufficient basis for federal courts to undo that tribunal's rulings.

BG Group responded by saying the district and appellate courts assumed that the manifest disregard doctrine was a basis for vacating arbitration awards, but then held that the tribunal in this case did not manifestly disregard the law, rendering moot Argentina's bid for clarity on the issue.

The Supreme Court denied Argentina's petition without explanation.

The decision made headlines in The American Lawyer, Law360 and other publications.

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