

Venezuela: Hydrocarbon Investment Re-Opens and a New Era for Dispute Resolution Arrives

For nearly two decades, the Bolivarian Republic of Venezuela ("**Venezuela**") mandated that all disputes arising from hydrocarbon contracts with Venezuelan state and state-owned/affiliated entities ("**Venezuelan State-Owned Entities**") must be resolved exclusively in Venezuelan courts. This legal regime effectively foreclosed international commercial arbitration at the purely contract level and forced investors in Venezuela to rely on bilateral investment treaties ("**BITs**") or multilateral investment instruments to pursue investment treaty arbitration—a much more limited remedy for aggrieved counterparties with Venezuelan State-Owned Entities in the hydrocarbon industry.

That legal landscape has now fundamentally changed on both the Venezuelan and U.S. sides of the contractual legal equation. Specifically:

- Venezuela's reformed Hydrocarbons Law (Gaceta Oficial No. 6.978 Extraordinaria, January 29, 2026) now authorizes mediation/conciliation and international arbitration as alternatives to Venezuelan courts and removes the requirement for prior authorization by the Venezuelan Attorney General's office (the "**Procuraduría General de la República**") for those clauses in contracts with Venezuelan State-Owned Entities (the "**Reformed Hydrocarbons Law**"); and

- The June 10, 2026, U.S. Office of Foreign Assets Control ("**OFAC**") amendments to the U.S. sanctions program targeting Venezuela now makes a variety of Venezuelan business opportunities available, for the first time in many years, to U.S. companies. This relaxation of sanctions was effected by the publication of seven OFAC General Licenses. For certain contracts with Venezuelan counterparties, these General Licenses require the inclusion of dispute resolution clauses that provide that proceedings may "occur in" four international locations (the United States, the United Kingdom, France, and Singapore) (the "**Permitted Seats**") and under any arbitration rules the parties agree to in their contract.

These complementary legal developments reflect another significant step in resolving the structural legal conflict that has long been a major obstacle to bankable Venezuelan hydrocarbon transactions for both U.S. nationals and non-U.S. investors with assets or operations in the United States.

Venezuela's Regulatory Evolution: Three Distinct Periods

(a) The Chávez Nationalization Era (2002 – 2025): Exclusively Venezuelan Courts

Venezuela's hydrocarbon sector dispute resolution landscape was fundamentally shaped by the Chávez nationalizations of 2007. Under the Venezuelan legal regime in force that went into effect in 2002, which was partially reformed in 2006, and which was further amended in 2007, all disputes arising out of

hydrocarbon contracts between foreign investors and Venezuelan State-Owned Entities (including Petróleos de Venezuela, S.A ("**PDVSA**"), PDVSA's subsidiaries and affiliates, and/or entities in which PDVSA or the Venezuelan State holds a majority controlling interest (directly or indirectly)) were required to be resolved before Venezuelan domestic courts. As a general rule,[1] international commercial arbitration via contract was effectively excluded from that legal regime.

As a result of those changes to the Venezuelan legal regime, counterparties with Venezuelan State-Owned Entities in the hydrocarbon sector were essentially left with only two viable dispute resolution options with the Venezuelan expropriations that followed: (1) submit to Venezuelan courts, which historically proved an ineffective and unreliable remedial forum; or (2) pursue investment treaty arbitration under an applicable BIT or multilateral investment agreement, where available, with potentially considerably higher thresholds and protections limited to treaty-level breaches. The investment treaty option was further limited in June 2012, when Venezuela withdrew from the ICSID Convention. This action foreclosed full ICSID Convention arbitration for new investments made after that date, although the ICSID Additional Facility (which is available where the investor's home state is a party to the ICSID Convention) remained accessible where the applicable BIT so provided (and many BITs with Venezuela expressly provide for both mechanisms).

(b) Venezuela Re-Opens and Washington Sets the Terms (January 29 – June 9, 2026)

On January 29, 2026, the Venezuelan National Assembly approved the Reformed Hydrocarbons Law. The new law was published in Gaceta Oficial No. 6.978 Extraordinaria. Article 8 of the Reformed Hydrocarbons Law introduced, for the first time, a statutory authorization for parties to agree that disputes of any nature that cannot be amicably resolved may be decided by Venezuelan courts ***or*** by "alternative dispute resolution mechanisms, including mediation and arbitration."[2] Critically, Article 8 also provides that "alternative dispute resolution" agreed pursuant to ministerial guidelines will not require the prior opinion or authorization of the Procuraduría General de la República or compliance with Venezuela's Commercial Arbitration Law. This appears to eliminate the procedural barrier that had historically made it impossible, as a practical matter, for Venezuelan State-Owned Entities to agree to arbitration clauses in hydrocarbon contracts.[3]

Simultaneously, in the United States, beginning on January 29, 2026, OFAC issued a series of General Licenses authorizing conditional re-engagement across Venezuela's oil, gas, petrochemical, minerals, and electricity sectors. However, those initial General Licenses imposed a sweeping dual condition: any contract with the Government of Venezuela, PDVSA, or PDVSA entities was required to specify that (1) the laws of the United States would "govern the contract," and (2) any dispute resolution pursuant to the contract "occur in" the United States.

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1 A limited exception to this general prohibition emerged in October 2020 with the enactment of Venezuela's Anti-Blockade Law Gaceta Oficial No. 6.583 Extraordinaria, October 12, 2020 (the "Anti-Blockade Law"). Under that law, certain upstream contracts entered into between PDVSA and private investors were permitted to include international arbitration clauses (in practice, under the UNCITRAL Rules with Paris as the seat) on a confidential, deal-by-deal basis subject to government approval. These arrangements operated as narrow, government-approved exceptions to the underlying statutory prohibition rather than as a broadly available statutory right. The general legal framework mandating resolution of hydrocarbon disputes before Venezuelan courts nonetheless remained unchanged, and the resulting regime remained structurally inhospitable to international arbitration for the vast majority of investors until the 2026 reforms described below.

2 The Reformed Mining Law (Ley Orgánica de Minas, published in the Gaceta Oficial No. 7.020 Extraordinaria on April 16, 2026) is consistent with the Reformed Hydrocarbons Law and mirroring the alternative dispute resolution language. The Reformed Mining Law is directly applicable to the Amended General Licenses 51B and 54A. On the U.S. side, GL 51B and GL 54A apply to CVG Compañía General de Minería de Venezuela CA ("**Minerven**") and entities in which Minerven holds, directly or indirectly, a 50 percent or greater interest—Venezuela's state mining entity, which is legally and structurally separate from PDVSA. Notwithstanding that different counterparty universe, the dispute resolution conditions in GL 51B and GL 54A are verbatim to those applicable under the five hydrocarbon General Licenses.

3 The Ministry of Hydrocarbons (in consultation with the Procuraduría) is required to issue general guidelines for such clauses; those guidelines had not yet been published as of this note, representing residual implementation uncertainty.

(c) The Current Framework: U.S.–Venezuela Greater Alignment (Beginning June 10, 2026)

On June 10, 2026, OFAC amended seven General Licenses (GL 46C, GL 47A, GL 48B, GL 50B, GL 51B, GL 52A, and GL 54A). Five of these seven General Licenses address hydrocarbon sector transactions with PDVSA and PDVSA entities, and two of them (GL 51B and GL 54A) address minerals sector transactions with Minerven entities rather than PDVSA entities (see footnote 2). OFAC simultaneously published a tie-in with "Frequently Asked Questions" 1260 that explained those amendments.[4] Significantly, OFAC's most recent amended General Licenses replaced OFAC's original Venezuela-related General License formulation with a materially refined two-part requirement: (1) the "terms of the contract" must be "construed and interpreted" in accordance with the laws of a U.S. state or other U.S. jurisdiction, and (2) dispute resolution proceedings may "*occur in" any of* the Permitted Seats.

OFAC's material modifications result in two significant legal changes. First, as OFAC's concurrent FAQ 1260 confirms, the shift from OFAC's "govern the contract" language to "construed and interpreted" language limits the mandatory U.S. law obligations to questions of contract law between the parties (interpretation, performance obligations, breach, remedies, payment, termination, validity, assignment or novation, and enforceability). Crucially, each amended General License now contains an express provision confirming that the U.S. law requirement permits inclusion of contract terms recognizing that Venezuelan law governs in-country operational and regulatory matters (including sovereign regulatory authority, administrative permits and licenses, concessions, labor, environmental, health and safety, and other mandatory regulatory requirements). Consequently, the carve-outs from the amended OFAC General Licenses are now generally aligned with Venezuela's Reformed Hydrocarbons Law itself, as well as the general legal principles and overall regulatory requirements that state sovereignty normally provides.

Second, with respect to dispute resolution (and arbitration in particular), FAQ 1260 confirms that when parties agree to arbitrate within the Permitted Seats set out in the General Licenses, the applicable arbitration (procedural) rules may be (a) those rules that are agreed *ad-hoc* by the parties, (b) those promulgated by internationally recognized arbitral institutions, and/or (c) the rules of the seat of arbitration. Notably, FAQ 1260 does not prescribe or prohibit any arbitration institution.

Together, these OFAC amendments bring U.S. and Venezuelan requirements for international arbitration agreements into general alignment for the first time in two decades. Venezuela's July 7, 2026, implementing regulations (Gaceta Oficial No. 7.052 Extraordinaria) confirm this overall trajectory. Article 107 of the implementing regulations authorizes international arbitration alongside mediation, conciliation and negotiation (collectively, "**mechanisms for alternative dispute resolution**"), subject to forthcoming guidelines to be issued jointly by Venezuela's Ministry of Hydrocarbons and the Procuraduría.

In parallel, a 180-day deadline under the Reformed Hydrocarbons Law (which, as of the date of this publication, expires on July 28, 2026) requires adaptation of existing Production Participation Contracts ("**PPC Contracts**") and Empresas Mixtas/Joint Venture contracts to the new framework—a process that should produce a potentially definitive signal of what alternative dispute resolution terms the Venezuelan state will accept under Article 8. Venezuela's forthcoming promulgation of ministerial guidelines, which will hopefully further define the permitted parameters of "alternative dispute resolution" clauses in upstream contracts, will be a further key issue to watch: the first generation of contracts agreed under those guidelines, once published, could establish the market practice architecture for years to come.

An important practical nuance may be noted regarding the Procuraduría's current role based on current information. Although Article 8 of the Reformed Hydrocarbons Law removed the statutory authorization requirement, in practice the Procuraduría continues to evaluate and consent to international arbitration clauses on a deal-by-deal basis during contract negotiation. Local practice appears to currently confirm that,

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[4] In short, an OFAC General License is an authorization to engage in activities otherwise prohibited by OFAC's sanctions. A General License is a self-executing authorization that does not require case-by-case approval, but only if all conditions of the General License are strictly observed.

with respect to current dealmaking, the Procuraduría and PDVSA are accepting international arbitration for foreign investors.

Implications for International Commercial Arbitration

The combined effect of Article 8 of the Reformed Hydrocarbons Law and the amended OFAC General Licenses is that international commercial arbitration is once again available as a dispute resolution mechanism for contract-level claims arising from hydrocarbon sector transactions with Venezuelan State-Owned Entities for the first time in nearly two decades. That structural constraint has now been removed, and parties to complex international energy transactions in Venezuela can again benefit from neutral, binding, and internationally enforceable dispute resolution.

OFAC's four Permitted Seats[5] for dispute resolution substantially expand parties' options for commercial dispute resolution and re-establishes international dispute resolution process on substantially firmer legal ground. Each of the Permitted Seats offers a mature pro-arbitration legal framework, a supervisory court system with a strong record of supporting international arbitral proceedings, and ready access to enforcement across the more than 170 nations that are party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (the "New York Convention") that complex international energy disputes may require. Despite the threshold ambiguity, designating any one of these Permitted Seats as the legal seat of arbitration should satisfy both possible readings of "occur in" simultaneously.

On the Venezuelan side of the legal equation, the ministerial guidelines that will define the permitted parameters of arbitration clauses under Article 8 have not yet been published. However, draft PPC Contracts negotiated under the new framework have (at the time of this writing) specified ICC Arbitration Rules with seats in Paris or London (as OFAC FAQ 1260 permits), indicating that institutional arbitration at those major international seats is being accepted in current practice. To the extent further definition of permitted international arbitration parameters is required under Venezuelan law, that should be addressed by the ministerial guidelines that the Ministry of Hydrocarbons must issue under Article 8, which are still forthcoming as of the date of this note.

Although the relevant U.S. and Venezuelan legal texts use different formulations—the amended General Licenses refer generically to "dispute resolution proceedings," the Reformed Hydrocarbons Law speaks of "alternative dispute resolution mechanisms, including mediation and arbitration," and Venezuela's model upstream contract template does not yet name any seat or rules—the direction of travel across all three legal instruments is unmistakable: each points toward international arbitration conducted in specified internationally recognized leading arbitral seats.[6]

Of course, the availability of international commercial arbitration via contractual mechanisms does not displace investment treaty arbitration. Investors qualifying under applicable BITs retain access to treaty-level protections and may pursue investment treaty arbitration under the Permanent Court of Arbitration, the ICSID Additional Facility (where the applicable BIT so provides), or other applicable institutional frameworks. Consequently, structuring investments to benefit from both layers simultaneously—commercial arbitration for contract-level claims and treaty arbitration for treaty breaches—may be a key element of any sound transaction architecture in this environment. Notably, the availability of international

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5 The amended General Licenses permit dispute resolution proceedings to "occur in" one of the four permitted locations. This language does not map neatly onto the established vocabulary of international arbitration, which draws a distinction between the legal seat or situs of an arbitration and the physical location of hearings. Whether OFAC's use of "occur in" rather than "seated in" reflects a deliberate policy choice or simply reflects the different vocabularies of sanctions practitioners and international arbitration specialists, remains to be seen.

6 One structuring qualification warrants potential attention: under Venezuela's implementing regulations, contracts that include international arbitration provisions are excluded from invoking "investment recovery risk" as a qualifying ground when requesting a rate reduction from the Ministry of Hydrocarbons. *See* Gaceta Oficial No. 43.410, Art. 33.2, provision 2.3. This provision does not appear to affect the right to arbitrate or the enforceability of the arbitration clause itself but rather affects only the scope of arguments available in a separate administrative process for tax-rate adjustment. Nonetheless, investors should be aware of this potential trade-off when structuring their dispute resolution and fiscal positions in tandem.

arbitration is not limited to PPC Contracts, with both existing and new Empresas Mixtas/Joint Ventures also eligible for arbitration provisions on the same basis.

Nevertheless, it is important to note that significant contractual risk has emerged from the latest draft PPC Contracts that are currently being negotiated. These contracts contain a clause under which the private investor (named "Empresa Operadora" in the context of these PPC Contracts) irrevocably commits to direct any claim, demand, arbitration, or legal action arising out of the contract exclusively against PDVSA Petróleo, S.A. ("PPSA"), wholly-owned subsidiary of PDVSA, as the contracting entity while simultaneously releasing PPSA-related entities from liability and formally waiving the right to bring individual or collective legal actions against them. Whether this clause operates as a contractual waiver of investment treaty protection, or whether it can be challenged as an impermissible restriction on rights that are inherent to the applicable treaty framework and cannot be waived by private contract, is a question that investors must carefully assess when structuring investments and negotiating contract terms under the new framework.

Non-U.S. Investors: Applicability of the OFAC General Licenses

The substantial changes in U.S. and Venezuelan law will apply not only to all U.S. companies doing business in Venezuela with the Venezuelan State-Owned Entities, but also any non-U.S. companies doing business in Venezuela with a U.S. nexus. A recurring concern among non-U.S. investors is whether they are bound by the OFAC General License framework, and what consequences they face if they transact outside that framework or fail to satisfy its conditions. In sum, the answer turns on a distinction between primary sanctions, which apply to U.S. persons, and secondary sanctions, which can reach non-U.S. persons even where their transactions have no direct U.S. nexus.

(a) Non-U.S. investors are not subject to U.S. primary sanctions

As a starting point, non-U.S. investors are not directly subject to U.S. primary sanctions so long as they do not act with a sufficient nexus to the United States. This nexus need not, however, be large. For example, transactions conducted in U.S. dollars are typically sufficient for U.S. primary sanctions to apply to an activity. The same is true where U.S. citizens or permanent residents act on behalf of non-U.S. companies. Thus, it should not be assumed that U.S. sanctions do not limit the activities on non-U.S. persons unless they have carefully assessed, and excluded, any U.S. nexus to their activities. Where there is a U.S. nexus, it may be necessary to ensure that activities are consistent with an OFAC general license.

(b) Secondary sanctions create real exposure

For non-U.S. investors, in addition to the primary sanctions risk discussed above, there is also a risk of so-called secondary sanctions—the risk that a non-U.S. person could be designated on OFAC's SDN List for engaging in proscribed activities or operating in key industries (including Venezuela's oil industry).

OFAC has consistently taken the position that non-U.S. persons are not at risk of secondary sanctions being imposed on them when they are engaging in activities that are lawful for U.S. persons. Thus, while operating in Venezuela's oil industry or transacting with PDVSA could give rise to designation risk for non-U.S. persons (activities that have led to numerous non-U.S. persons being sanctioned),[7] that risk will not be present where the non-U.S. person's activities are consistent with the detailed requirements of OFAC's General Licensing regime.

To this end, following the issuance of GL 46C, GL 51B, and GL 52A, OFAC published guidance in the form of a "Frequently Asked Question" that was directed specifically to non-U.S. persons. This FAQ (No. 1247) explained that non-U.S. persons could avoid secondary sanctions risks by engaging in activities authorized

[7] Examples of non-U.S. persons designated pursuant to E.O. 13850 for operating in Venezuela's oil sector include: Rosneft Trading S.A. (Swiss-incorporated brokerage firm, Feb. 2020) for brokering Venezuelan crude sales on behalf of PDVSA; Ballito Bay Shipping Incorporated (Liberia) and ProPer In Management Incorporated (Greece) (Apr. 2019) as owner and operator of a tanker delivering Venezuelan crude to Cuba; Swissoil Trading SA and Elemento Ltd (Jan. 2021) for lifting, brokering, and receiving Venezuelan crude shipments; and Corniola Limited, Krape Myrtle Co LTD, Winky International Limited, and Aries Global Investment LTD (Dec. 2025) as owners and operators of shadow fleet vessels transporting Venezuelan oil. These designations span over six years of enforcement across trading, brokerage, and maritime service providers in multiple jurisdictions. *See* U.S. Dep't of Treasury Press Releases, Apr. 5, 2019; Feb. 18, 2020; Jan. 2021; Dec. 31, 2025.

for U.S. persons by these General Licenses so long as those non-US persons meet certain conditions.[8] These conditions include that the non-U.S. entity was organized on or before January 29, 2025; all payments to blocked persons are routed through the Foreign Government Deposit Funds ("**FGDFs**"),[9] and neither a restricted counterparty nation nor a blocked vessel is involved.[10]

Notably, FAQ 1247 is silent on commercial dispute resolution. FAQ 1247's enumerated conditions do not require governing law or dispute resolution provisions mirroring those in the General Licenses. This creates an open question: whether the FAQ's reference to transactions "authorized under" the relevant GLs imports all GL conditions (including the dispute resolution location requirement) or only the FAQ's own enumerated conditions. This ambiguity is specific to these three "established U.S. entity" licenses; for the broader "U.S. person" licenses (GL 47A, GL 48B, GL 49A, GL 50B, GL 54A, GL 55), OFAC's general principle applies and the question does not arise.

Until OFAC provides further guidance, there may be flexibility in the dispute resolution approach non-U.S. parties choose, but the prudent course is to select one of the Permitted Seats the General Licenses require—the United States, the United Kingdom, France, or Singapore—which ensures compliance regardless of how the ambiguity is resolved.

Alternatively, U.S. and non-U.S. persons alike can enter into contracts with certain entities identified in the Annex of GL 50B to support their authorized activities in the Venezuelan oil or gas sectors. This provides companies with another pathway—not as independent operators, but as service providers or contractors working alongside one of the six named majors under the umbrella of GL 50B's comprehensive authorization.

(c) Consequences of falling outside the safe harbor

A non-U.S. investor that transacts in Venezuela's hydrocarbon sector in a manner that falls outside a General License authorization risks exposure to secondary sanctions. The consequences can be severe: (1) designation on OFAC's Specially Designated Nationals ("**SDN**") List, which blocks all property and interests in property of the designated person that are in the United States or in the possession or control of any U.S. person; (2) prohibition on U.S. persons—including banks, financial institutions, and commercial counterparties—from transacting with the designated entity; (3) effective exclusion from the U.S. financial system and U.S. dollar-denominated transactions, restricting access to global correspondent banking; and (4) broader reputational consequences that may affect financing, insurance, and commercial relationships well beyond the United States. The impact of any designation can be material, and companies looking to operate in Venezuela's oil or gas sectors should carefully assess their activities to ensure their activities do not give rise to these secondary sanctions risks. Each business opportunity presents unique risks that require case-by-case assessment of the applicable sanctions regime.

Conclusion

Parties considering Venezuelan hydrocarbon or minerals transactions—whether U.S. companies or non-U.S. investors—should view the framework described in this note as both an opportunity and a set of guidelines. For the first time in nearly two decades, as a matter of general law, Venezuelan hydrocarbon and mining agreements now have a basic legal framework for reliable international commercial dispute resolution. That framework allows for neutral, binding, and internationally enforceable arbitration in any of four world-class arbitral seats, under arbitration rules chosen by the parties, consistent with the New York

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8 OFAC generally does not issue licenses for the benefit of non-U.S. persons. Typically, a non-U.S. person can engage in activities that are "consistent" with authorizations to U.S. persons that OFAC publishes to limit secondary sanctions risk. Here, that is complicated by the fact that one of the conditions for eligibility to benefit from these General Licenses is being a U.S.-organized company. Non-U.S. persons clearly cannot comply with that condition. OFAC FAQ No. 1247 therefore seeks to provide guidance to non-U.S. persons consistent with OFAC's General Licenses.

9 Executive Order 14373 of January 9, 2026.

10 The transaction may not involve any person located in or organized under the laws of the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, or the Republic of Cuba, or any entity owned or controlled by, or in a joint venture with, such persons. Additionally, the transaction may not involve any entity located in or organized under the laws of Venezuela or the United States that is owned or controlled, directly or indirectly, by or in a joint venture with a person located in or organized under the laws of the People's Republic of China.

Convention regime. Critically, none of this, however, is solely a dispute resolution issue—seat selection, international arbitration clause design, governing law formulation, OFAC safe harbor eligibility, counterparty screening, and FGDF payment routing are all deal-structuring issues that must be addressed at the earliest stages of transaction planning, not after contracts are signed.

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