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Here Be Dragons: A Map of the Domestic Legal Terrain for Restructuring Venezuela's External Debt

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Abstract: On May 13, 2026, the Government of Venezuela announced the launch of its external debt restructuring. Several legal aspects of that process require consideration. This paper offers a general map of those aspects to help navigate the troubled waters of Venezuelan law. It does not propose a strategy for navigating that terrain, nor does it purport to resolve every legal problem it identifies. Given the complexity and unprecedented nature of Venezuela's case, this mapping is a necessary first step: it identifies the legal questions any restructuring must answer, how they relate to one another, and the order in which they must be addressed. To that end, the paper addresses the debt perimeter, particularly non-financial debt, whose exact amount should be determined through a reconciliation process under the fiscal regulations governing Venezuelan public debt. It examines the constitutional provisions governing the authority to restructure the debt after January 3, 2026, as well as Venezuela's legal framework for advancing the restructuring process. It then discusses key institutional challenges facing the debt sustainability analysis, the contractual structure of the international bonds, the impact of economic sanctions regulations and Executive Order 14373, and the legal status of PDVSA and its affiliate, Citgo. Overall, the paper's main lesson is that, on this map, *hic sunt dracones*: complex legal problems under Venezuelan public law, compounded by issues in New York and international law that any restructuring must also confront.

Keywords: Venezuelan external public debt; debt reconciliation; sovereign debt restructuring; PDVSA; economic sanctions

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I. Introduction

On November 2, 2017, Venezuelan President Nicolás Maduro declared a unilateral restructuring of the country's public debt, particularly the international bonds issued by the Republic and Petróleos de Venezuela, S.A. (PDVSA). The announcement came one day before PDVSA paid the overdue 2017 bonds, which had not been exchanged the previous year when the national oil company issued its last international bonds, the PDVSA 2020 bonds, backed by collateral comprising 50.1% of Citgo Holding, Inc.'s shares.¹

This was essentially a “chronicle of a foretold default.” Under President Hugo Chávez's policies (1999–2012), Venezuela's government increased public spending, driven in part by the commodity super-cycle, which brought an oil windfall. After the 2006 nationalization, PDVSA captured almost all oil revenues by expropriating private-sector assets and reducing private-sector investment. To sustain this expansionary spending, the country issued both domestic and foreign bonds. In addition, Venezuela signed other financial agreements, particularly with the China Development Bank. Apart from financial debt, the government accumulated non-financial claims from nationalization policies that extended beyond the oil industry.

¹ “Maduro ordenó refinanciar toda la deuda externa de Venezuela,” *Efecto Cocuyo*, November 2, 2017, <https://efectococuyo.com/economia/maduro-ordeno-refinanciar-toda-la-deuda-externa-de-venezuela/>.

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As PDVSA's capacity declined—due to the same policies that led to the nationalization of the oil industry—it amassed claims for breaches of contract and related disputes. By 2014, experts warned that Venezuela's debt was unsustainable.² In fact, although Venezuela continued to service its bonds, it had already begun defaulting through contract breaches, particularly with PDVSA's suppliers.³

In 2017, the rational choice would have been to implement a thorough debt restructuring as part of broader economic reforms to tackle the main causes of the severe economic and social crisis. However, three institutional constraints hindered this process.

The *first constraint* was the dispute over constitutional authority. Starting in 2016, the Maduro government engaged in a political contest with the opposition-controlled fourth legislature of the National Assembly elected in 2015.⁴ Because any restructuring would require National Assembly oversight, the Maduro government decided to defer it, despite several announcements on the matter.⁵

The *second constraint* was Executive Order (EO) 13808, issued on August 24, 2017, which restricted new debt issuance and hindered debt restructuring unless Venezuela secured a license from the U.S. Department

² See Ricardo Hausmann and Miguel Angel Santos, "Should Venezuela Default?," *Project Syndicate*, September 5, 2014, <https://www.project-syndicate.org/commentary/ricardo-hausmann-and-miguel-angel-santos-pillory-the-maduro-government-for-defaulting-on-30-million-citizens--but-not-on-wall-street>.

³ See Carmen M. Reinhart and Kenneth Rogoff, "Venezuela's Spectacular Economic Underperformance," *Project Syndicate*, October 13, 2014, <https://www.project-syndicate.org/commentary/venezuela-economic-underperformance-by-carmen-reinhart-and-kenneth-rogoft-2014-10>.

⁴ Regarding the 2016 constitutional crisis, see Allan Brewer-Carías, *La destrucción del Estado de derecho, la ruina de la democracia y la dictadura judicial*, Colección Tratado de Derecho Constitucional, vol. XVI (Caracas: Fundación de Derecho Público / Editorial Jurídica Venezolana, 2016), 711. On the implications of that crisis for the public debt, see Andrea Trocel Yabrudy, "Consideraciones sobre la legitimidad de los bonos de la deuda pública nacional ante la ausencia de una ley de presupuesto para el periodo económico 2017," *Revista de la Facultad de Derecho de la Universidad Católica Andrés Bello*, no. 72 (2017–2018): 38–57.

⁵ See my analysis in José Ignacio Hernández G., "How Political Turmoil Could Limit Venezuela's Debt Options," *Americas Quarterly*, April 12, 2018, <https://www.americasquarterly.org/article/how-political-turmoil-could-limit-venezuelas-debt-options/>.

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of the Treasury's Office of Foreign Assets Control (OFAC). As outlined in Section VII, the sanctions framework's restrictions gradually intensified.

Finally, the *third institutional constraint* involved the U.S. government's recognition policy. Between January 23, 2019, and March 5, 2026, the United States recognized the fourth legislature of the National Assembly – initially through the interim government headed by its president, Juan Guaidó – as Venezuela's legitimate government. Because U.S. courts defer to the Executive's recognition decisions and New York law governs the international bonds, the Maduro government could not act on behalf of the Republic and PDVSA in the United States; that representation shifted to the administrative bodies controlled by the fourth legislature.⁶

The U.S. capture and removal of Nicolás Maduro on January 3, 2026, eased some previous restrictions. On March 5, 2026, the United States recognized the government of Delcy Rodríguez, whom it later identified before U.S. courts as Venezuela's sole head of state, and transferred to Rodríguez's administration the legal representation previously exercised by the bodies controlled by the fourth legislature, as Section III explains. This recognition facilitated Venezuela's re-engagement with the International Monetary Fund (IMF),⁷ the World Bank,⁸ and the Inter-American Development Bank (IDB).⁹ Additionally, OFAC issued General License 58 on May 5, 2026, authorizing the Venezuelan government to engage in certain otherwise prohibited transactions necessary for the initial steps of a debt restructuring. Under that license, the Government of Venezuela engaged

⁶ Allan R. Brewer-Carías and José Ignacio Hernández G., *The Defense of the Rights and Interests of the Venezuelan State by the Interim Government before Foreign Courts, 2019–2020* (Caracas: Editorial Jurídica Venezolana International, 2021), 19.

⁷ International Monetary Fund, “IMF Announces Resumption of Dealings with Venezuela,” April 16, 2026, <https://www.imf.org/en/news/articles/2026/04/16/pr26123-venezuela-imf-announces-resumption-of-dealings>.

⁸ World Bank, “World Bank Group Announces Resumption of Dealings with Venezuela,” April 16, 2026, <https://www.worldbank.org/en/news/statement/2026/04/16/world-bank-group-announces-resumption-of-dealings-with-venezuela>.

⁹ Inter-American Development Bank, “IDB Group Announcement on Venezuela,” June 24, 2026, <https://www.iadb.org/en/news/idb-group-announcement-venezuela>.

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Centerview Partners as its financial advisor and Hogan Lovells as its legal advisor.¹⁰

In this new institutional environment, the Sectoral Vice Presidency of Economy announced the “launch” of the debt restructuring on May 13, 2026,¹¹ while Centerview promised to deliver a macro framework and a debt sustainability analysis (DSA) by June.¹² The June 24 earthquake doublet delayed the plan, as the Sectoral Vice Presidency of Economy announced that the DSA would now factor in the earthquakes' economic impact.¹³

This is not the first announcement regarding the debt restructuring process. However, this time could be different because the recognition policy, sanctions relief, and U.S. policies toward Venezuela might create the right conditions to move forward with the restructuring, as Secretary of State Marco Rubio recently declared.¹⁴

Still, several legal aspects require consideration. This paper offers a general map of those aspects to help navigate the troubled waters of Venezuelan law. It does not propose a strategy for navigating that terrain, nor does it purport to resolve every legal problem it identifies. Given the complexity and unprecedented nature of Venezuela's case, this mapping is a necessary first step: it identifies the legal questions any restructuring must

¹⁰ Based on filings under the Foreign Agents Registration Act (FARA), on behalf of the Republic and PDVSA. See https://efile.fara.gov/ords/f?p=1381:200:::200:P200_REG_NUMBER:2244.

¹¹ See the official statement, in Spanish, issued by the Sectoral Vice Presidency of Economy on May 13, 2026, <https://www.mppef.gob.ve/comunicado-gobierno-de-la-republica-bolivariana-de-venezuela-anuncia-el-proceso-de-reestructuracion-de-deuda>.

¹² See an English version of the statement by the Sectoral Vice Presidency of Economy, published by Centerview Partners, https://www.centerviewpartners.com/docs/20260513_BRV_Debt_Restructuring_Press_Release.pdf. The reference to the macro framework and debt sustainability analysis, originally expected by June, was included only in the English version of the statement.

¹³ “Venezuela mantendrá el proceso de reestructuración de su deuda externa pese a los terremotos,” *EFE*, July 14, 2026, <https://efe.com/economia/2026-07-14/venezuela-deuda-externa-terremotos/>.

¹⁴ U.S. Department of State, “Secretary of State Marco Rubio Remarks to Press,” Palace Hotel, New York City, September 23, 2026, <https://www.state.gov/releases/office-of-the-spokesman/2026/09/secretary-of-state-marco-rubio-remarks-to-press-16> (“They have probably the world's largest sovereign debt that has to be restructured. [...] So, we discussed the steps that remain to make that happen, and debt restructuring is key to that. Obviously, we want to be helpful in that regard; it has to be done in the right way.”).

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answer, how they relate to one another, and the order in which they must be addressed. No restructuring strategy can be sound without a clear understanding of that terrain.

To that end, Section II addresses the relevant aspects of the debt perimeter, particularly non-financial debt, whose exact amount should be determined through a reconciliation process under the fiscal regulations governing Venezuelan public debt. Because that process could take time, the interim authorities' announcement suggests that the restructuring could be limited to international bonds, which do not require reconciliation. Section III examines Venezuela's constitutional provisions governing the government's authority to restructure debt, considering the specific conditions prevailing after January 3 and the recognition policy. Although the bonds are subject to New York law, Venezuelan constitutional law determines the authority to undertake debt restructuring.

Section IV examines Venezuela's legal framework for advancing the restructuring process. Venezuelan public law governs this procedure under general principles of administrative law, such as transparency. Section V discusses key institutional challenges facing the DSA, noting that the IMF has not yet participated in the restructuring.

Section VI examines institutional constraints in the contractual structure of Venezuelan international bonds, highlighting how this structure may exacerbate the collective action problem and increase holdout risk. It also addresses the impact of the statute of limitations (SOL) under New York law and the question of acceleration.

Section VII discusses the impact of economic sanctions regulations and EO 14373, issued on January 9, 2026, which creates a specific framework to safeguard certain Government of Venezuela assets from attachment and seizure by creditors. Section VIII summarizes the legal status of PDVSA and its affiliate, Citgo, focusing on ongoing litigation in U.S. courts and the

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changes introduced by the reform of the Organic Hydrocarbons Law approved in January 2026.

The conclusion summarizes the key legal considerations for restructuring Venezuela's external debt. Overall, this paper maps the legal terrain of Venezuela's public debt, and its main lesson is that, on this map, *hic sunt dracones*. The dragons are complex legal problems arising under Venezuelan public law, compounded by issues of New York law and international law that, although beyond the scope of this paper, any restructuring will also have to confront.

II. The external debt perimeter and the reconciliation process

The initial phase of debt restructuring involves identifying the amount of debt to be restructured. This is considered “step zero” in the process and is generally straightforward.¹⁵ However, Venezuela faces two institutional challenges.

The *first institutional* challenge is the lack of reliable economic data in Venezuela, stemming from the country's widespread institutional fragility, which led the IMF to issue a declaration of censure in 2018.¹⁶ Key missing information includes the public debt stock, covering both domestic and external claims. Under Venezuelan law, the National Public Debt Office (ONCP) within the Economy and Finance Ministry manages public debt, including maintaining records of all public-sector monetary obligations, as mandated by the Organic Law of Financial Administration of the Public Sector (LOAFSP) and Regulation No. 2.¹⁷ In addition, the Central Bank of

¹⁵ This step zero, or preparatory stage, is described in Global Sovereign Debt Roundtable, *Sovereign Debt Restructuring: A Playbook for Country Authorities*, updated version as of April 15, 2026, <https://documents1.worldbank.org/curated/en/099513504152621492/pdf/IDU-6bd41110-dc0a-488b-b660-b8e0c0c20d58.pdf>.

¹⁶ International Monetary Fund, “Statement by the IMF Executive Board on Venezuela,” May 2, 2018, <https://www.imf.org/en/news/articles/2018/05/02/pr18158-statement-by-the-imf-executive-board-on-venezuela>.

¹⁷ The Organic Law of Financial Administration of the Public Sector (Ley Orgánica de la Administración Financiera del Sector Público, LOAFSP) is the statute that governs public finance, including debt transactions by the Government of Venezuela (Official Gazette No. 6.210 extraordinary, dated December 30, 2015). The public debt framework is set out in Regulation No. 2 of the LOAFSP (Official Gazette No.

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Venezuela (BCV) has the authority to gather data on external debt and the balance of payments.¹⁸ Nevertheless, neither the ONCP nor the BCV has carried out these responsibilities.

The absence of official economic statistics in Venezuela reflects the country's deep institutional weakness, prompting the IMF to classify it as a Fragile and Conflict-Affected State (FCS).¹⁹ Although the FCS Strategy does not create a specific lending tool, it enables the IMF to support the Venezuelan government in strengthening its capabilities, especially in improving statistical systems.²⁰ Restoring this capacity is essential for Venezuela to fulfill its information disclosure duties, such as those required during an Article IV consultation.²¹

The *second institutional challenge* is that Venezuelan debt includes a wide variety of claims. Beyond traditional financial instruments such as bonds, the debt also includes private claims based on breach of contract, including promissory notes issued by PDVSA to pay suppliers and contractors, as well as expropriation claims based on nationalization policies. In some cases, those claims have resulted in awards and judgments, including arbitration awards under bilateral investment treaties within the scope of the International Centre for Settlement of Investment Disputes (ICSID) Convention. These claims also encompass allegations of indirect

38.117, dated January 28, 2005). Article 79(5) and (9) of the LOAFSP vests in the ONCP the authority to record public debt transactions. The ONCP is the technical agency responsible for public debt management.

¹⁸ The Central Bank has the authority to compile, produce, and publish key statistics on the economy, money, finance, exchange rates, prices, and the balance of payments. See Article 7(13) of the Central Bank of Venezuela Law (in Spanish, Ley del Banco Central de Venezuela, LBCV; Official Gazette No. 6.211 extraordinary, dated December 30, 2015).

¹⁹ See Section V.

²⁰ See my analysis in José Ignacio Hernández G., "Venezuela and the FCS Program at the IMF" (June 3, 2024), <https://ssrn.com/abstract=4852140>.

²¹ As of June 30, 2026, Venezuela's last Article IV consultation had been concluded on September 13, 2004, a delay of 234 months, the longest among IMF members. See International Monetary Fund, *List of IMF Member Countries with Delays in Completion of Article IV Consultations or Mandatory Financial Stability Assessments over 18 Months*, IMF Policy Paper No. 2026/024 (Washington, DC: IMF, August 2026), Appendix I, <https://www.imf.org/-/media/files/publications/pp/2026/english/ppea2026024.pdf>.

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expropriation, such as purported damages arising from the price and foreign exchange controls implemented since 2003.²²

Private-sector claims include those of domestic and foreign investors. While the former tend to be denominated in local currency (VED), the latter tend to be denominated in foreign currency, particularly claims arising from international investment arbitration, whether contract- or treaty-based.²³ International bonds are also a significant component of the private sector's external claims.²⁴

Venezuelan public debt also includes claims held by other countries – that is, bilateral debt—including members of the Paris Club.²⁵ The most intriguing bilateral debt is with China, based on joint funding mechanisms implemented between the China Development Bank (CDB) and Venezuela's National Bank of Social and Economic Development (BANDES). Under the signed agreements, PDVSA assumed the obligation to repay the loans through oil supplies. CDB disbursed approximately \$59.2 billion through the

²² Venezuelan public debt comprises the financial commitments of the Government of Venezuela, understood as the national level of government (National Power), excluding states and municipalities. This includes the Republic (the centralized administration) and the entities it has created or organized (the decentralized administration), including state-owned enterprises (SOEs) such as PDVSA. See Article 5, LOAFSP. These obligations fall into two categories: financial debt, arising from agreements for reimbursable funds (bilateral and multilateral loans, and financing from private creditors, mainly through bonds), and non-financial debt, which covers all other obligations, such as commercial claims for breach of contract, arrears, and expropriation claims. For this legal taxonomy, see José Ignacio Hernández G., *La defensa judicial del Estado venezolano en el extranjero y la deuda pública legada de Chávez y Maduro (2019–2020)* (Caracas: Editorial Jurídica Venezolana, 2022), 283.

²³ The distinction between external and internal debt often depends on factors such as the creditor's domicile, governing law, and payment currency. See Mauro Megliani, *Sovereign Debt: Genesis – Restructuring – Litigation* (Cham: Springer, 2015), 3. In Venezuela, the main variables are the domicile and the payment currency, with the latter being the most distinctive feature from an economic perspective. See Article 3(16) and (17), Regulation No. 2.

²⁴ “International bonds” are those payable in foreign currency, commonly U.S. dollars, and governed by foreign law, specifically New York law, as Section VI explains.

²⁵ According to the Paris Club's 2025 Annual Report, Venezuela owes \$8.92 billion to Paris Club member states. See <https://clubdeparis.org/en/sites/clubdeparis/accueil/donnees-publications/rapports-annuels.html>.

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joint funds, although the outstanding amount is difficult to determine. This is one of the most obscure aspects of Venezuela's debt.²⁶

Finally, Venezuela owes money to multilateral institutions, particularly the Corporación Andina de Fomento (CAF)²⁷ and the IDB.²⁸

Although discussions of Venezuelan debt tend to focus only on external debt, private claims also include local-currency (VED) claims—that is, domestic debt, including bonds.²⁹

The scope of the debt also extends to debtors other than the Republic (central government debt). Various Venezuelan government entities are also debtors, with state-owned enterprises (SOEs) playing a significant role.³⁰ A prime example is the national oil company, PDVSA, which, along with its affiliates and joint ventures, accounts for a substantial portion of the debt. The legal situation of this oil company is complex because U.S. and Portuguese courts have disregarded PDVSA's separate legal identity from the Republic, as Section VIII explains.

The announcements of the Sectoral Vice Presidency of Economy seem to limit the restructuring to the external debt of the Republic and PDVSA based on claims held by the private sector, thereby excluding (i) domestic debt and (ii) bilateral and multilateral debt. Even with this narrow scope, it is necessary to determine the exact amount of the Government of Venezuela's

²⁶ According to estimates by the Inter-American Dialogue and the Boston University Global Development Policy Center. See <https://www.thedialogue.org/MapLists/#/Policy/List/amount>.

²⁷ Venezuela owes \$1.94 billion to the Corporación Andina de Fomento, according to the 2025 Financial Statement, <https://www.caf.com/es/inversionistas-old-2026/estados-financieros/>.

²⁸ Venezuela's arrears with the IDB amount to \$2.18 billion, according to the Annual Report 2025: Financial Statements, <https://publications.iadb.org/en/inter-american-development-bank-annual-report-2025-financial-statements>.

²⁹ The announcement on the debt restructuring seems to focus only on private claims related to the external debt. According to the English version of the announcement, the debt workout includes "the outstanding external commercial debt issued in the form of Eurobonds by the Republic and PDVSA, consistently with its public debt sustainability objectives." Regarding external debt, the announcement clarified that "official debt obligations will be addressed through institutional normalization."

³⁰ SOEs are corporations in which the Government holds at least 50% of the shares. See Article 5(8), LOAFSP.

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external debt. However, the lack of official records and the variety of claims impede an accurate assessment of the debt perimeter.

According to *Transparencia Venezuela*, as of October 2025, Venezuela's external debt amounted to \$164.43 billion, distributed as follows:³¹

Debt	Amount
Financial debt	95.30
Non-financial debt	69.13
Total	164.43

Table No. 1. Venezuelan external public debt, financial and non-financial. Billions of U.S. dollars.

Source: Transparencia Venezuela.

The exact amount of those claims can be determined only in some cases, such as international bonds issued by the Republic, PDVSA, and Electricidad de Caracas (ELECAR), currently Corporación Eléctrica Nacional (CORPOELEC). For those instruments, the governing documents provide the basis for calculating principal and past-due interest (PDI).³²

The Government of Venezuela has been sued in U.S. courts, principally in New York, for breach of contract under the international bonds, and those

³¹ See Transparencia Venezuela, *Salvar la deuda, salvar Venezuela*, 2025, <https://saldarladeuda.com/>.

³² The calculation of principal and PDI, however, does not exhaust the amount owed. Several bondholders brought breach-of-contract actions and obtained judgments against the Republic and PDVSA. Upon entry of judgment, the contractual claim merges into the judgment: contractual interest ceases to accrue, and the judgment bears post-judgment statutory interest. For the bonds subject to judgment, the total amount owed is therefore principal, plus contractual interest to the date of judgment, plus statutory interest from that date forward.

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actions have resulted in money judgments.³³ Occasionally, a foreign court has entered a money judgment for breach of commercial contracts.³⁴ In addition, arbitration tribunals have rendered awards that mandate compensation payments in foreign currency.³⁵ In all those cases, the amount owed by the Government of Venezuela can be quantified. Finally, the bilateral debt owed to Paris Club members, as well as multilateral debt (CAF and IDB), can be determined from the creditors' financial statements.

Within the external debt that could be restructured, only claims based on international bonds, judgments, published arbitration awards, Paris Club bilateral debt, and multilateral debt can be identified without any forensic accounting exercise. These are liquidated and due claims. A liquidated claim is one whose amount has been determined or is determinable without further adjudication; a claim is due when it has matured and is unconditional.

A substantial portion of the Republic's and PDVSA's obligations – commercial arrears, supplier claims, unpublished arbitration awards, and contingent liabilities – meets neither test. These claims cannot be quantified, let alone exchanged, until their amount and validity have been established. A reconciliation process, along the lines of the claims verification exercise conducted for Iraq after 2003, is therefore a precondition for defining the restructuring perimeter, not a parallel workstream.³⁶

³³ When quantifying external debt, it is essential to avoid double-counting: the judgment does not sit alongside the bond claim. Rather, for accounting purposes, it replaces it, since the contractual monetary obligation merges into the judgment upon entry.

³⁴ This was the case in Portugal, as Section VIII explains.

³⁵ The arbitration awards comprise both contract-based disputes and claims under bilateral investment treaties. Where an award creditor has obtained recognition and enforcement in a U.S. court, the resulting money judgment likewise supersedes the award for quantification purposes and should be counted in its place. In both cases, the substituted figure will not match the original, principally because post-judgment statutory interest accrues at a different rate than the underlying contractual or award interest. See my analysis in José Ignacio Hernández G., "La responsabilidad patrimonial de la Administración Pública frente al derecho extranjero e internacional: el caso de la deuda pública externa," *Revista Electrónica de Derecho Administrativo Venezolano* (CIDEP), no. 25 (2022): 27–50.

³⁶ Simon Hinrichsen, "The Iraq Sovereign Debt Restructuring," *Capital Markets Law Journal* 16, no. 1 (2021): 95–114, <https://doi.org/10.1093/cmlj/kmaa031>.

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This reconciliation must be implemented in accordance with Venezuela's fiscal control regulations to determine the monetary obligations duly assumed by the Government of Venezuela, pursuant to Article 312 of the Constitution.³⁷ After the reconciliation process, the Government of Venezuela will recognize the legitimate monetary obligations – that is, the reconciled claims. The claim holders will then be able to participate in the debt workout.

A possible solution is to limit the restructuring process to external obligations that are liquidated and due, particularly international bonds, which do not require reconciliation. In the meantime, the existence and amount of the undetermined liabilities would be properly determined through a reconciliation process.³⁸ The primary risk of this fragmented restructuring is that it may not address the core economic issues behind

³⁷ Article 312 of the Constitution provides that the Government of Venezuela shall recognize no obligations other than those contracted by legitimate organs of the National Power in accordance with the law, making organic competence and legal conformity cumulative conditions of recognition rather than presumptions arising from the creditor's possession of an instrument. The Organic Law of the Office of the Comptroller General of the Republic and of the National Fiscal Control System (in Spanish, Ley Orgánica de la Contraloría General de la República y el Sistema Nacional de Control Fiscal, LOCGRSNCF) (Official Gazette No. 6.013, dated December 23, 2010) implements that rule procedurally: Article 38 conditions the assumption of financial commitments and the making of payments on prior verification of correct budgetary imputation, availability of appropriation, compliance with applicable legal requirements, and – decisively – that payments correspond to certain and duly evidenced commitments (“compromisos ciertos y debidamente comprobados”) and to genuine credits held by their titleholders; Article 42 assigns to external fiscal control the determination of compliance with those requirements and the verification of the accuracy and truthfulness of financial information; and Article 74 vests the Comptroller General with oversight of public credit operations.

³⁸ Undetermined liabilities refer to claims that are not yet liquidated or due, including: (i) ongoing arbitration claims and court complaints; (ii) possible claims from expropriations; (iii) potential claims for breach of contract, such as (a) violations of commercial contracts like the supply of goods and services, and (b) breaches of financial agreements involving funds disbursed to the Government of Venezuela, particularly PDVSA's affiliates and joint ventures; and (iv) potential claims for damages attributable to the Government of Venezuela. These liabilities may also encompass contingent obligations arising from guarantees extended by the Government—for instance, under concession agreements. Regarding the particularities of those obligations, see Lee C. Buchheit and Mitu Gulati, “Restructuring a Sovereign Debtor's Contingent Liabilities,” in *Sovereign Financing and International Law: The UNCTAD Principles on Responsible Sovereign Lending and Borrowing*, edited by Carlos Esposito, Yuefen Li, and Juan Pablo Bohoslavsky (Oxford: Oxford University Press, 2013), 287–294, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2194099.

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Venezuela's debt.³⁹ In addition, excluded creditors could challenge the restructuring, since restructuring only some claims could be considered discriminatory treatment.

Claims based on international bonds do not require reconciliation in the accounting sense: their amount, including principal and past-due interest, follows mechanically from the terms of each instrument. However, the fiscal controls under Venezuelan public law discussed in Section IV may require an inquiry into the conditions under which certain bonds were issued, in addition to the sanctions and anti-money laundering screening that any exchange must uphold. Cases like the Republic's bond issued on December 29, 2016, due in 2036, reflect the importance of such an inquiry.⁴⁰

In summary, the legal taxonomy of Venezuela's external debt claims is as follows:

	Determined	Undetermined
Financial	Multilateral debt (IDB/CAF) Paris Club International bonds (principal and PDI)	China Other bilateral debt (Russia)
Non-financial	Final awards and judgments (not related to international bonds)	Breach-of-contract claims, promissory notes, unsettled expropriation claims

Table No. 2. Taxonomy of the external public debt.

Source: Author's elaboration.

III. Venezuelan constitutional law and the question of authority to restructure the debt

³⁹ According to Transparencia Venezuela, the non-financial debt amounts to \$69.13 billion, which will not be restructured in this scenario. As a result, even after restructuring the international bonds, the debt might still be unsustainable.

⁴⁰ ISIN USP97475AQ39, CUSIP AM1108092. OFAC has determined that the Government of Venezuela is both the issuer and the sole holder of this bond. See OFAC FAQ 523 (July 19, 2018). Based on this determination, the bond's legitimacy as an instrument of Venezuelan debt is questionable.

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The Executive Branch has the authority to restructure Venezuela's government debt. Regarding the Republic's debt, this authority is vested in the Presidency.⁴¹ Administrative entities, such as PDVSA, have their own authority to restructure their debt, based on a decision adopted by their boards of directors. Under general principles of administrative law, the Republic and SOEs are distinct legal entities. Consequently, each can independently decide on debt restructuring: the Republic cannot legally act on PDVSA's behalf, although PDVSA must act within the economic policies designed by the Presidency.⁴²

The Presidency is the highest administrative authority on fiscal policy and should coordinate with the Central Bank. As a result, notwithstanding the autonomy of PDVSA and other entities, the legitimacy of the debt workout stems from the Presidency's legitimacy. Accordingly, one of the legal aspects to be considered is precisely the legitimacy of the Presidency after the events of January 3. I will not address this aspect in detail. My purpose is to identify the origins of the constitutional doubts about this legitimacy and their implications for a debt restructuring that the "interim authorities" could advance.⁴³

⁴¹ The Presidency manages the national treasury (or "hacienda pública"), including issuing and executing debt policies. Article 236(11) and (12), Constitution.

⁴² According to the Organic Law of Public Administration (Ley Orgánica de la Administración Pública, LOAP, Official Gazette No. 6.147, dated November 17, 2014), decentralized entities like PDVSA have "autonomous authority" within the Republic. That means PDVSA's highest authority—the board—is the only body with the capacity to enter into contracts and make other decisions regarding the debt. But this autonomy does not mean independence. The Presidency, through the Hydrocarbons Ministry, exercises oversight control over PDVSA, known as "control de tutela" (Articles 103 and 104). The Presidency appoints the board members, and the Hydrocarbons Ministry represents the Republic as shareholder (Clauses 11 and 17, Presidential Decree No. 2.184, Official Gazette No. 37.588, dated December 10, 2002).

⁴³ In this paper, the term "interim authorities" refers to the government led by Delcy Rodríguez, in office since January 3; the term follows several statements by the U.S. government. See, for instance, U.S. Department of State, "A Statement on U.S.-Venezuela Relations," March 5, 2026, <https://www.state.gov/releases/office-of-the-spokesperson/2026/03/a-statement-on-u-s-venezuela-relations>. The term should be distinguished from the interim government that the fourth legislature organized in 2019.

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These doubts have two sources: one concerns Nicolás Maduro's legitimacy as president, and the other concerns the legitimacy of the vice president, Delcy Rodríguez, to serve as acting president.

On January 3, 2026, Maduro was serving as president after his third-term inauguration on January 10, 2025, following the National Electoral Council's proclamation of him as president-elect after the 2024 election, which the Electoral Chamber of the Supreme Tribunal of Justice later validated. However, the U.S. government has concluded that the proclamation did not result from a free and fair election. Notably, in at least two statements of interest filed in federal courts, the U.S. government confirmed its policy of not recognizing Maduro as Venezuela's legitimate president.⁴⁴ This policy was even reaffirmed in the same March 2026 communication that confirmed Rodríguez's recognition as the sole head of state.⁴⁵ In addition, in the criminal case against Maduro before the U.S. District Court for the Southern District of New York, the Department of Justice has affirmed that Maduro is not considered the legitimate president of Venezuela, particularly because he was not duly elected in 2024.⁴⁶ These are U.S. government determinations; they do not, by themselves, settle Maduro's status under Venezuelan constitutional law, though they illustrate the doubts surrounding his

⁴⁴ See Statement of Interest of the United States of America, *Petróleos de Venezuela, S.A. v. MUFG Union Bank, N.A.*, No. 19 Civ. 10023 (KPF) (S.D.N.Y. Aug. 29, 2025), concluding that “Maduro does not speak for the Venezuelan people,” and that the United States does not recognize Maduro or his associates as the government of Venezuela. A similar statement was filed in *Fraiz Trapote v. Bolivarian Republic of Venezuela*, No. 1:23-cv-02118 (D.D.C. Sept. 26, 2025) (AliKhan, J.), recalling that in the Venezuelan presidential election held in July 2024 Maduro “falsely and baselessly declared himself the winner,” despite evidence that Venezuelan “citizens overwhelmingly cast their ballots for opposition candidate Edmundo González Urrutia.”

⁴⁵ Statement of Interest of the United States of America filed on March 11, 2026, in *Stansell v. FARC*, No. 16 Misc. 405 (LGS) (SN); *Pescatore v. Palmera Pineda*, No. 18 Misc. 545 (LGS) (SN); *In re Claims Against the Valero-Petrocedeño Account*, No. 20 Misc. 249 (LGS) (SN); and *Osio v. Maduro Moros*, No. 25 Misc. 390 (LGS) (SN) (S.D.N.Y.). That statement attached a letter from Ambassador Michael G. Kozak, Senior Bureau Official, Bureau of Western Hemisphere Affairs, U.S. Department of State, stating that “[s]ince January 23, 2019, the United States has not recognized Maduro as the Head of State of Venezuela and that nonrecognition continues to the present. Maduro is an indicted narco-terrorist who awaits trial in U.S. federal court for his crimes.”

⁴⁶ For instance, Sealed Superseding Indictment, *United States v. Maduro Moros*, No. S4 11 Cr. 205 (AKH), ECF No. 260, ¶ 3 (S.D.N.Y. Jan. 3, 2026). See also Superseding Indictment, *United States v. Maduro Moros*, No. S5 11 Cr. 205 (AKH), ECF No. 342 (S.D.N.Y. Oct. 8, 2026).

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mandate. If Maduro was not the lawful president of Venezuela as of January 3, then Delcy Rodríguez's appointment as vice president was not lawful either. Consequently, one can challenge her constitutional authority on the grounds that she lacks a legitimate appointment.

Doubts about the legitimacy of the Maduro government are not new. Since the constitutional clash with the fourth legislature of the National Assembly, as explained in the introduction, the Maduro government's contested constitutional authority has undermined its legitimacy to address the debt.⁴⁷

Even setting these doubts aside and assuming Rodríguez was duly appointed vice president of a legitimate government, the Constitution's rules on presidential vacancies also raise questions. Under Article 234 of the Constitution, the vice president may fill a temporary absence for up to 90 days, which the National Assembly may extend for another 90 days; if the absence lasts more than 90 consecutive days, the National Assembly must decide whether it should be considered absolute. An absolute absence during the first four years of the presidential term requires a new election within 30 days (Article 233). As the Venezuelan Academy of Political and Social Sciences has noted, the vice president's substitution is temporary and cannot be extended indefinitely.⁴⁸ Those periods have expired, and no election has been called. It has been argued that, as a result, the absence became absolute and that exercising the Presidency's authority beyond those periods could be considered usurpation.⁴⁹

⁴⁷ Mitu Gulati and Ugo Panizza, "Maduro Bonds," in *Sovereign Debt Diplomacies: Rethinking Sovereign Debt from Colonial Empires to Hegemony*, edited by Pierre Pénét and Juan Flores Zendejas (Oxford: Oxford University Press, 2021), 282 (commenting that President Nicolás Maduro, "while purporting to be democratic, has been widely condemned in the international community as illegitimate," 283).

⁴⁸ See Academia de Ciencias Políticas y Sociales, statement dated April 3, 2026, <https://www.acienpol.org.ve/wp-content/uploads/2026/04/Pronunciamiento-Vacancia-Presidente.pdf>.

⁴⁹ According to Article 138 of the Constitution. See Allan R. Brewer-Carías, "Término de la suplencia de la falta temporal o ausencia forzosa de Nicolás Maduro por parte de la Vicepresidenta Ejecutiva, su falta absoluta a partir del 3 de julio de 2026, y la necesidad de una transición democrática," in *Nuevas reflexiones sobre la Democracia. A los 215 años de su instauración en Venezuela*, Colección Publicaciones del Instituto de

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One possible solution is to rely on the Constitutional Chamber of the Supreme Tribunal of Justice's opinion, issued just hours after Maduro's capture. According to that opinion, the capture created an extraordinary situation of "forced absence." As a result, the Chamber ordered Rodríguez to exercise the Presidency's authority, without classifying the vacancy as temporary or absolute under the constitutional rules on presidential vacancies.⁵⁰

Assuming, for the sake of argument, that the interim authorities lack a constitutional mandate (because Maduro's government is deemed illegitimate or because the acting president's temporary mandate has expired), Venezuelan constitutional law offers two possible conclusions. The first possibility is to treat the interim authorities as a *de facto* government and, as a result, to view the exercise of the Presidency's authority as usurpation, rendering all their decisions null and void, including those on debt restructuring.⁵¹ An alternative approach is to consider that, although they are a *de facto* government, the interim authorities can make valid and binding decisions during a constitutional transition.⁵²

Derecho Público Allan R. Brewer-Carías, Universidad Central de Venezuela, No. 1 (Caracas: Editorial Jurídica Venezolana, 2026), 595 ff.

⁵⁰ See Opinion No. 1 of the Constitutional Chamber, dated January 3, 2026, <https://historico.tsj.gob.ve/decisiones/scon/enero/352131-0001-3126-2026-26-0001.HTML>. The opinion concludes that "the foreign military aggression that occurred on January 3, 2026" created the "forced absence of the President of the Republic, in light of the exceptional circumstance arising from the abduction of citizen Nicolás Maduro Moros, President of the Republic, which constitutes a case of material and temporary impossibility of discharging the functions of his office." To address this "forced absence," the Constitutional Chamber ordered a "protective measure to safeguard the administrative continuity of the State and the defense of the Nation, without thereby deciding on the merits as to the definitive legal characterization of the presidential vacancy (whether temporary or absolute), nor supplanting the powers of other organs of the State to make such a characterization in subsequent proceedings." Consequently, it ordered the vice president, Delcy Rodríguez, to assume and exercise in the capacity of acting president ("presidente encargado") "all the powers, duties, and faculties inherent to the office of President of the Bolivarian Republic of Venezuela, in order to safeguard the administrative continuity and the integral defense of the Nation."

⁵¹ Allan R. Brewer-Carías (n 49).

⁵² According to Articles 333 and 350 of the Constitution, this transitional framework might establish the validity of decisions made by a *de facto* government. This paper does not explore whether or how such a solution could be implemented.

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This analysis considers only whether the debt restructuring decision could be challenged under Venezuelan law. It is also necessary to determine the possible implications for debt governed by foreign law, particularly the international bonds governed by New York law.

As Section VI explains, New York law governs the international bonds. However, Venezuelan public law governs the authority to issue bonds and modify their contractual terms. The overlapping application of Venezuelan law and New York law was the main conclusion reached by the New York Court of Appeals in its February 20, 2024, opinion, issued in the litigation concerning the PDVSA 2020 bonds before the U.S. District Court for the Southern District of New York (currently pending before the U.S. Court of Appeals for the Second Circuit). Although New York law governs the bonds, the opinion concluded that their validity turns on constitutional provisions determining whether PDVSA was duly authorized to issue the notes. The opinion relies on the *ultra vires* doctrine to determine whether the borrowing entity acted according to its constitutional authority.⁵³

However, doubts about the interim authorities' constitutional mandate may not raise an *ultra vires* issue; they may instead concern their constitutional legitimacy. Accordingly, the New York Court of Appeals' opinion may not be relevant to determining the consequences of any such lack of legitimacy under New York law.⁵⁴

Another problem is how a New York court would handle claims challenging the validity of the restructuring agreements if the interim

⁵³ *Petróleos de Venezuela, S.A. v. MUFG Union Bank, N.A.*, 2024 N.Y. Slip Op. 00851 (N.Y. Feb. 20, 2024).

⁵⁴ The current situation does not necessarily indicate an *ultra vires* case, that is, one in which the restructuring decisions would have been made beyond the Executive's constitutional authority. For insights on the implications of *ultra vires* in public debt, see Sebastian Grund and Roshak Momtahn, "Contested Authority: The Legal Framework for Ultra Vires Sovereign Debt and Its Implications for Public Debt Transparency," *Emory International Law Review* 40 (forthcoming), May 2, 2025, <https://ssrn.com/abstract=5239335>. See also W. Mark C. Weidemaier and Mitu Gulati, "Unlawfully-Issued Sovereign Debt," *Virginia Journal of International Law* 61 (2021): 553. In any case, the consequences of any invalidity under Venezuelan public law would be governed by New York law, a matter that exceeds the scope of this paper.

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authorities were regarded as a *de facto* government.⁵⁵ Since the legal capacity to act in the United States depends on recognition by the U.S. President, courts might determine that declaring the agreements null and void under Venezuelan constitutional law could interfere with the President's foreign policy. On that reasoning, a court could defer to the recognition determination rather than second-guess the interim authorities' capacity to bind the Republic.⁵⁶

Therefore, even if the exercise of authority to restructure the debt is invalid under Venezuelan law, that invalidity is not necessarily relevant under New York law.

The question of authority can be summarized as follows: (i) The constitutional authority of the interim authorities to enter into a debt restructuring operation could be challenged (a) because of the alleged illegitimacy of Maduro's government, which includes the vice president, and/or (b) because the vice president may have exceeded the constitutional time limits on temporary absences. (ii) From the perspective of Venezuelan law, two possible ways to sustain the constitutional mandate are (a) to rely on the opinion rendered by the Constitutional Chamber on January 3, and/or (b) to frame the authority of the interim authorities as part of the constitutional transition framework. (iii) Even if the agreements signed are null and void under Venezuelan law, that does not necessarily mean their invalidity will have extraterritorial effects with respect to contracts governed by New York law. Addressing these variables properly exceeds the scope of this paper, which focuses on mapping the legal framework and potential obstacles.

⁵⁵ Sabine Michalowski, *Unconstitutional Regimes and the Validity of Sovereign Debt: A Legal Perspective* (Aldershot: Ashgate, 2007), 97, analyzes the implications of de facto governments for the validity of public debt contracts, among other topics. On the effect of U.S. recognition on who may represent a foreign state in U.S. courts, see *Guaranty Trust Co. v. United States*, 304 U.S. 126, 137 (1938); see also *Zivotofsky v. Kerry*, 576 U.S. 1 (2015).

⁵⁶ Once again, this is a topic related to U.S. law that falls outside the scope of this paper.

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In conclusion, constitutional concerns cast doubt on the legality of restructuring Venezuela's debt. These uncertainties could heighten criticism of the workout, especially regarding institutional challenges and a lack of transparency, which can undermine the workout's legitimacy and, as a result, its effectiveness. From that perspective, and given Venezuela's long history of constitutional abuses, those criticisms could evolve into "odious debt" challenges.⁵⁷ The claim of odious debt is more moral than legal, because it is unclear whether a New York court would refuse to enforce contracts based on their odiousness. What matters is addressing the constitutional and legal doubts about the validity of the contracts that could be entered into as part of the debt workout, particularly because those doubts could increase coordination costs among stakeholders. Hence, clarifying these issues is essential not only for legal certainty but also for enhancing the legitimacy of the restructuring process to foster better coordination among creditors.⁵⁸

IV. The Venezuelan regulatory framework for debt restructuring

Venezuela's Constitution, statutes, and regulations define the legal framework for debt restructuring.⁵⁹ Rather than detailing a debt restructuring procedure, this framework sets out the general principles that must be observed. Any violation of this framework could impair the validity

⁵⁷ A specter haunts Venezuela: the specter of odious debt. Nevertheless, odiousness is not a relevant legal claim. What really matters, from a legal standpoint, is whether the debt is valid. See Lee C. Buchheit, Mitu Gulati, and Robert B. Thompson, "The Dilemma of Odious Debts," *Duke Law Journal* 56, no. 5 (2007): 1201, 1230 (concluding that "[a] principle of public international law concerning odious debts does not now have, nor is it likely to achieve, the consensus necessary for it to claim the title of 'doctrine'").

⁵⁸ The principles of the rule of law have gained increasing significance in public debt, strengthening its legitimacy, which is crucial to debt sustainability. Adherence to the rule of law is regarded as a vital element of legitimacy. In this context, Venezuela presents a particularly complex case because structural state fragility undermines the effective implementation of these principles. See generally Odette Lienau, *Rethinking Sovereign Debt: Politics, Reputation, and Legitimacy in Modern Finance* (Cambridge, MA: Harvard University Press, 2014), 193–225.

⁵⁹ For a general overview of this framework, see Rafael Badell Madrid, *Deuda pública externa venezolana: consideraciones jurídicas en torno a su reestructuración* (Caracas: Academia de Ciencias Políticas y Sociales, 2026), 51.

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of the restructuring, with potential consequences for contracts governed by New York law, as explained in the prior section.⁶⁰

Article 311 of the Constitution enumerates the principles governing fiscal management, which also apply to debt restructuring: efficiency, solvency, transparency, responsibility, and fiscal balance. The Constitution further develops the last two principles. Fiscal balance, according to Article 311, requires that fiscal policy “is to be balanced over a multiyear budget framework, in such manner that ordinary revenues shall be sufficient to cover ordinary expenses.” Article 312 elaborates on responsibility for public debt: “public debt limits shall be set by law in accordance with a prudent level in terms of the size of the economy, reproductive investment and the ability to generate revenues to cover public debt service.” The responsibility principle captures the concept of sustainable debt, but from a constitutional law perspective. The statute governing public debt expands the catalog of principles.⁶¹

This list resembles the *Basic Principles on Sovereign Debt Restructuring Processes* adopted by the United Nations General Assembly, which include transparency, impartiality, and legitimacy.⁶² Those principles – and particularly legitimacy – are relevant not only from a legal standpoint. Their effective implementation creates favorable institutional conditions to increase trust and confidence among the parties involved in the workout, potentially alleviating coordination problems among creditors.⁶³

⁶⁰ Article 92, LOAFSP. Public debt operations carried out in contravention of the provisions of this statute “shall be deemed null and void, without prejudice to the liability of those who carry them out. Any obligations purportedly arising from such operations shall not be enforceable against the Republic or against any other public entities.”

⁶¹ Article 2 of the LOAFSP includes the following principles: social justice, legality, honesty, participation, efficiency, solidarity, solvency, transparency, responsibility, accountability, fiscal balance, and macroeconomic coordination. Other statutes complement these principles, such as the Law Against Corruption (Ley Contra la Corrupción, LCC; Official Gazette No. 6.699 extraordinary, dated May 2, 2022). Its Article 6 enumerates the following principles: honesty, probity, decorum, transparency, citizen participation, effectiveness, efficiency, legality, collaboration, accountability, responsibility, and co-responsibility.

⁶² UN General Assembly Resolution 69/319, September 10, 2015.

⁶³ Odette Lienau, “The Challenge of Legitimacy in Sovereign Debt Restructuring,” *Harvard International Law Journal* 57, no. 1 (2016): 151–214 (observing that compliance with a debt workout mechanism “perceived to

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Transparency enhances not only legitimacy but also debt sustainability. A reliable DSA requires full disclosure of the debt stock, including contingent liabilities and hidden debt that could otherwise surface after the restructuring and undermine it.⁶⁴

The debt workout must comply with the regulatory framework established by the LOAFSP, Regulation No. 2, and the fiscal control regulations. This framework applies to *public debt renegotiation*. Accordingly, these instruments define both public debt and renegotiation.

Under Venezuelan law, public debt arises from public credit operations ("*operaciones de crédito público*"), defined as any "operation intended to obtain resources implying reimbursable financing," including bonds.⁶⁵ Read strictly, this definition excludes monetary obligations that do not result from obtaining reimbursable financing, such as arbitration awards or damages for breach of commercial contracts.⁶⁶

Debt is categorized as internal or external based on the payment currency and the creditor's residence.⁶⁷ In practice, however, external debt refers to any public credit agreement that the Government of Venezuela must settle

be more legitimate could thus encourage a greater willingness on the part of domestic groups to engage in consensual restructuring processes and then implement the resulting agreements with relative equanimity, thereby minimizing the second-order disruptions that can accompany a restructuring," 154).

⁶⁴ Karla Vasquez, Kika Alex-Okoh, Alissa Ashcroft, Alessandro Gullo, Olya Kroytor, Yan Liu, Mia Pineda, and Ron Snipeliski, "The Legal Foundations of Public Debt Transparency: Aligning the Law with Good Practices," IMF Working Paper No. 24/29 (Washington, DC: International Monetary Fund, 2024), 29. As concluded by the World Bank, transparency serves two goals in a restructuring process: "Firstly, it allows restructuring participants to make informed decisions regarding the appropriate level of debt relief needed to restore debt sustainability. Secondly, it enables creditors to verify that the burden of debt relief is equitably distributed." World Bank, *Radical Debt Transparency* (Washington, DC: World Bank, 2025), 35.

⁶⁵ Article 6(4), LOAFSP. Public credit operations are carried out through the public borrowing agreement ("*contrato de empréstito público*")—that is, the contract whereby the Government receives financial resources from one or more lenders, undertaking the obligation to repay the principal received on the agreed terms and maturities, together with payment of the stipulated interest. See Ezra Mizrahi, "Los contratos de empréstito," in *Régimen jurídico de los contratos administrativos* (Caracas: Fundación de la Procuraduría General de la República, 1991), 169. See also Article 80, LOAFSP.

⁶⁶ In any case, the framework covers only debt maturing beyond the fiscal year of issuance. Obligations that mature within the same fiscal year are classified as "treasury notes" (Article 3(18), Regulation No. 2).

⁶⁷ Article 3(16) and (17), Regulation No. 2. Internal debt is payable in local currency, while external debt is payable in foreign currency to non-resident entities. This condition is confusing, because a debt payable in foreign currency to creditors resident in Venezuela should be considered external.

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in foreign currency, regardless of whether the creditors reside in Venezuela. Contracts related to external debt are generally governed by foreign law regarding rights and obligations. In contrast, Venezuelan law governs the contract's administrative aspects, such as signing authority and oversight by administrative and parliamentary bodies.⁶⁸

Under Venezuelan law, public debt renegotiation includes *refinancing* and *restructuring*. Regulation No. 2 does not clearly distinguish between them and, in any case, the distinction has no practical effect. One possible interpretation is to treat the former as a modification of the original debt terms, including reprofiling. The latter involves extinguishing the old debt and replacing it with new debt, for instance, through a bond exchange.⁶⁹

Debt renegotiation can be implemented through any transaction, including consolidation, conversion, unification, exchange, derivative transactions, repurchase, and redemption.⁷⁰ The key point is that under the governing statute (LOAFSP), debt renegotiation is classified as a public credit operation and is therefore subject to all regulations governing public debt, particularly those outlined in Title III.⁷¹

Accordingly, debt restructuring is itself considered a public credit operation subject to the formal and substantive controls outlined in Title III. In general terms, the formal controls include the following parliamentary controls:

- As a general condition, the debt workout must be authorized in advance by a statute approved by the National Assembly, known as

⁶⁸ Articles 77 and 93, LOAFSP. The LOAFSP allows choice-of-law provisions, including those that define the jurisdiction of foreign courts. Regarding the constitutional aspect of those provisions, see Tatiana B. de Maekelt and Eugenio Hernández-Bretón, "Jurisdicción y derecho aplicable en materia de contratos de empréstito público," *Revista de la Facultad de Ciencias Jurídicas y Políticas*, no. 102 (1997): 323.

⁶⁹ According to Article 3(33) and (34) of Regulation No. 2, restructuring requires extinguishing the old debt and contracting the new debt in the same act; refinancing is the broader category of issuing new debt to pay, exchange, cancel, redeem, or repurchase pre-existing debt.

⁷⁰ Article 80(5) of the LOAFSP and Article 60 of Regulation No. 2. Sections 4, 8, 11, 22, 32, 37, and 39 of Article 3 of Regulation No. 2 define those operations. Article 63 regulates exchange and repurchase operations, while Article 64 regulates derivative instruments.

⁷¹ Articles 80(5) and 90 of the LOAFSP, and Article 59 of Regulation No. 2.

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the “Special Annual Indebtedness Law” (*Ley Especial de Endeudamiento*).⁷² This special statute is submitted to the National Assembly together with the annual budget law, pursuant to Articles 312 and 313 of the Constitution.

- The requirement of authorization under the “Special Annual Indebtedness Law” has four exceptions:⁷³
 - ✓ Prior legislative authorization is not required under Article 100 of the LOAFSP⁷⁴ for refinancing or restructuring operations whose purpose is (i) reduction of the agreed interest rate; (ii) extension of the payment period; (iii) conversion of external debt into internal debt; (iv) reduction of cash flows; and (v) a gain or saving in the effective cost of financing—in each case for the benefit of the Republic with respect to the debt being refinanced or restructured. The Executive must report debt agreements to the National Assembly within five business days of their execution.
 - ✓ PDVSA is not subject to the controls outlined in Title III and, as a result, does not require prior legislative authorization to renegotiate its debt. Nevertheless, it must certify its capacity to pay, subject to oversight by the Hydrocarbons Ministry and the ONCP.⁷⁵
 - ✓ Public financial institutions, as well as SOEs, are exempt from the prior legislative authorization requirement to engage in debt workouts. Nevertheless, the Presidency must authorize those entities based on the ONCP's technical opinion.⁷⁶

⁷² Article 312 of the Constitution and Articles 82 and 83 of the LOAFSP. The special statute authorizes the maximum amount of debt that can be contracted in the fiscal year. If the restructuring exceeds the maximum limit, the National Assembly must adopt an ad hoc statute to authorize the maximum amount of the debt workout. In any event, the authorization should outline the overall restructuring framework but cannot impose additional controls beyond those specified in the LOAFSP. See Articles 83 and 90 of the LOAFSP.

⁷³ These exceptions are relevant to all public credit operations, including debt workout cases.

⁷⁴ Articles 57 and 58, Regulation No. 2.

⁷⁵ Article 101(4), LOAFSP. The exception also applies to the Central Bank (section 1), BANDES (section 2), and the Government's commercial financial institutions (section 3).

⁷⁶ Article 102, LOAFSP, and Articles 66 and 67, Regulation No. 2.

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- ✓ Renegotiation of multilateral debt is exempt from the prior legislative authorization requirement.⁷⁷
- Notwithstanding those exceptions, any debt restructuring agreement that qualifies as a “national public interest contract” and is entered into with entities not domiciled in Venezuela requires prior authorization by a resolution passed by the National Assembly, supported by an opinion of the Central Bank.⁷⁸
- The Executive must inform the National Assembly about public credit operations twice a year.⁷⁹

In addition to those parliamentary controls, the public debt workout is subject to administrative controls, in accordance with the following framework:

- The general principle is that the Executive has discretion to define debt restructuring operations within the scope of the legislative authorization.⁸⁰
- The Economy and Finance Ministry holds ultimate authority over public credit operations, including debt restructuring agreements. In this context, the ONCP oversees the restructuring process.⁸¹

⁷⁷ Article 99(2), LOAFSP.

⁷⁸ Article 150 of the Constitution and Article 97, LOAFSP. See Rafael Badell Madrid (n 59). On whether PDVSA's contracts qualify as national public interest contracts, see n 146.

⁷⁹ Article 97, LOAFSP.

⁸⁰ Article 61, Regulation No. 2. Traditionally, public finance regulations required the Executive to obtain prior authorization from the Permanent Finance Commission of the National Assembly to execute public credit transactions. However, the current LOAFSP, dated 2015, abolished this control as part of reforms to reduce checks and balances. Regulation No. 2 was adopted in 2005 and, hence, still includes references to the controls exercised by the Permanent Finance Commission. Regarding the reform, see Enrique J. Sánchez Falcón, “La Ley Orgánica de la Administración Financiera del Sector Público, entre los años 2000 y 2015, ruta segura hacia el despilfarro,” *Revista Venezolana de Legislación y Jurisprudencia*, no. 7-III (2016): 717.

⁸¹ Articles 4, 79, 88, and 95, LOAFSP, and Article 16, Regulation No. 2.

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- The Presidency must authorize the restructuring operation by decree.⁸²
- The Central Bank must provide a technical opinion.⁸³
- The Attorney General's Office must render a legal opinion.⁸⁴
- All contracts must comply with the regulations and guidance set by the ONCP.⁸⁵
- The ONCP and the National Assembly must be informed when the contracts are executed.⁸⁶
- The Comptroller General's Office and the fiscal control bodies will oversee all transactions to determine their legality and rationality.⁸⁷

These formal controls serve substantive goals, in accordance with Articles 311 and 312 of the Constitution, namely, to ensure the economic rationality of the debt workout and the debt's sustainability. Under Article 312, public debt is deemed sustainable when it remains within a prudent level relative to the size of the economy, reproductive investment, and the capacity to generate revenues to cover debt service.⁸⁸ Accordingly, the debt workout

⁸² Article 17, Regulation No. 2.

⁸³ Article 96, LOAFSP, and Article 18, Regulation No. 2. See also Article 47(3), LBCV.

⁸⁴ Articles 23, 24, 29, and 31, Regulation No. 2. The legal counsel of the Economy and Finance Ministry must also provide an opinion (Article 29(8), Regulation No. 2).

⁸⁵ Article 88, LOAFSP, and Articles 19 and 69, Regulation No. 2. Those contracts must also follow the general principles of the public contracts framework.

⁸⁶ Article 40, Regulation No. 2.

⁸⁷ Articles 139 and 140, LOAFSP, as well as Article 74, LOCGRSNCF.

⁸⁸ Article 2, LOAFSP. Fiscal control covers not only the legality but also the rationality of the debt workout (Article 61, LOCGRSNCF). The LCC reinforces those principles (Article 18).

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must adhere to the general principles of rationality and fiscal balance, as part of the deliberative democratic principles that underpin the budget process.

The Central Bank must provide official economic information for the technical assessment of debt sustainability, including the ability to pay,⁸⁹ the need for orderly economic growth, expected tax revenues for the year, debt service requirements, gross domestic product, export income, and other macroeconomic indicators.⁹⁰

This assessment should cover the entire outstanding debt, including the debt recorded in the registers maintained by the ONCP,⁹¹ as well as any other non-financial claims. Drawing on these registers and on macroeconomic data from the Central Bank, the ONCP should conduct a technical analysis demonstrating that the proposed terms achieve the lowest possible cost consistent with a prudent degree of risk.⁹²

This assessment must also consider the annual report that the Economy and Finance Ministry must prepare and submit to the National Assembly regarding the management of public debt, including the status of the debt balance and debt service, the balance of the operations carried out, the prevailing trends in the financial markets, and the prospects and future strategies in the management of public credit.⁹³

On this basis, it is possible to determine the general aspects of the administrative procedure for advancing the debt workout under

⁸⁹ The ability or capacity to pay is an additional control that applies to PDVSA, as explained. See Article 101, LOAFSP.

⁹⁰ Article 82, LOAFSP. As explained, the Central Bank must provide an opinion regarding the technical aspects of the workout (Article 96, LOAFSP, and Article 9, Regulation No. 2).

⁹¹ Article 79(5) and (9), LOAFSP, and Article 37, Regulation No. 2.

⁹² Article 68, Regulation No. 2.

⁹³ Article 71, Regulation No. 2.

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Venezuelan public law.⁹⁴ This procedure can be divided into the following steps:⁹⁵

- Step 0. This step includes the preparatory actions, particularly regarding the debt reconciliation process and the DSA. Despite the financial advisors' support, the reconciliation procedure and the DSA must comply with the fiscal framework, which, as explained, requires official information provided by the Central Bank and the ONCP in accordance with the transparency principle. SOEs, including PDVSA, must advance their own reconciliation processes in coordination with the ONCP.
- Step 1. Based on the preparatory actions, the Executive must define the general scope of the restructuring, particularly whether prior legislative authorization is needed. The President must approve the official launch of the workout by decree. SOEs participating in the workout, including PDVSA, must approve the launch through their own board decisions.
- Step 2. The Economy and Finance Ministry will coordinate negotiations with creditors to advance any of the restructuring or refinancing tools described above. Each participating SOE, including

⁹⁴ In addition to the fiscal framework, the workout must also consider the general principles of administrative procedure defined in the LOAP and the Organic Law of Administrative Procedures (Ley Orgánica de Procedimientos Administrativos, LOPA; Official Gazette No. 2.818 extraordinay, dated July 1, 1981).

⁹⁵ For a general description of those steps, see Global Sovereign Debt Roundtable, *Sovereign Debt Restructuring: A Playbook for Country Authorities* (n 15). See also Lee C. Buchheit, Guillaume Chabert, Chanda DeLong, and Jeromin Zettelmeyer, "How to Restructure Sovereign Debt: Lessons from Four Decades," PIIE Working Paper 19-8 (Washington, DC: Peterson Institute for International Economics, May 2019), <https://www.piie.com/publications/working-papers/how-restructure-sovereign-debt-lessons-four-decades>.

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PDVSA, must conduct its own negotiations under the Ministry's coordination.

- Step 3. Following negotiations, the Economy and Finance Ministry will oversee the signing of memoranda of understanding or agreements in principle, ensuring compliance with public contracting procedures, including obtaining the Central Bank's technical opinion. Each participating SOE will finalize its own documentation.
- Step 4. The renegotiation agreements are executed, subject to the fiscal controls.

This procedure must follow the general principles of administrative procedure, particularly regarding publicity, transparency, and accountability. These principles aim to improve the quality of the workout and fulfill constitutional mandates on debt sustainability,⁹⁶ in accordance with international law principles applicable to Venezuela.⁹⁷

Except where authorization under the “Special Annual Indebtedness Law” is mandatory, the workout does not require a special statute. However, a special statute could increase its legitimacy and expand policy options,

⁹⁶ See Article 10, LOAP, Article 30, LOPA, and Article 6, LCC.

⁹⁷ Article 23 of the Constitution makes international human rights law part of the constitutional order. Therefore, the workout procedure must also comply with general principles drawn from the Inter-American Human Rights System, as recently reflected in Resolution No. 2/2026, approved by the Inter-American Commission on Human Rights. The Resolution recommends that “states should ensure that significant borrowing and economic reform measures are subject to prior human rights impact assessments and, where appropriate, to ex post assessments” (Principle 4.3), https://www.oas.org/es/cidh/decisiones/pdf/2026/2-26-politicas_fiscales_spa.pdf.

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particularly regarding guarantees and debt-for-equity swaps, thereby benefiting the debt restructuring.⁹⁸

As shown, the announced Venezuelan restructuring is at Step 0, that is, the preparatory stage conducted under General License 58, as Section VII explains.

In summary, Venezuelan public debt restructuring must follow general principles such as transparency, legality, efficiency, social justice, and participation. These principles are intended to create favorable institutional conditions for restoring debt sustainability and fostering coordination among creditors. Effective implementation requires technical capabilities, particularly within the ONCP and the Central Bank.

V. Institutional challenges in debt sustainability analysis and the role of the International Monetary Fund: The Fragile and Conflict-Affected States Strategy

A key element of the debt workout is the DSA: the technical diagnosis of the Government of Venezuela's fiscal capacity to service its debt. The assessment is built on scenarios that estimate the probability that the Government can meet its current and prospective obligations without a large fiscal correction, and that debt service does not pose a material risk of an

⁹⁸ In particular, the Republic cannot provide collateral or guarantees for third-party obligations, nor can it conduct public credit transactions collateralized by the Government's fiscal revenue assets (Articles 104 and 105, LOAFSP).

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adverse outcome such as default. The DSA, in turn, defines the workout's fiscal envelope.⁹⁹

If the assessment finds the debt unsustainable, it will also specify the overall debt relief required to restore sustainability. The approach to achieving this relief will form the core of the workout. Therefore, the DSA could help coordinate efforts between the Government and creditors, especially given the collective action problems associated with international bonds, as explained in the next section.¹⁰⁰

The DSA can help address information asymmetries because it relies on economic data such as debt levels and composition, financing needs, economic growth, fiscal and external accounts, and monetary and exchange-rate variables. When stakeholders have different perspectives on this data, coordinating efforts can become costly. This highlights the IMF's key role in preparing the DSA, which goes beyond technical assistance: it also anchors the process, reduces information asymmetries, and facilitates coordination.¹⁰¹ If all stakeholders accept the IMF's analysis, coordination costs decrease. Additionally, the IMF's role helps boost confidence in the restructuring process.

So far, the interim authorities' debt restructuring process has not received technical assistance from the IMF, although the Fund resumed dealings with Venezuela in April 2026.¹⁰² Centerview is expected to prepare the macro

⁹⁹ Lee C. Buchheit, Guillaume Chabert, Chanda DeLong, and Jeromin Zettelmeyer (n 95).

¹⁰⁰ Xavier Debrun, Jonathan D. Ostry, Tim Willems, and Charles Wyplosz, "Debt Sustainability," in *Sovereign Debt: A Guide for Economists and Practitioners*, edited by S. Ali Abbas, Alex Pienkowski, and Kenneth Rogoff (Oxford: Oxford University Press, 2019), 151.

¹⁰¹ Venezuela's lack of credible macro information has impaired its classification. Until fiscal year 2026, the World Bank kept Venezuela "unclassified," but for fiscal year 2027 it classified it as a lower-middle-income country. See World Bank, "FY27 Updated Country Income Classification for Analytical Purposes," <https://documents1.worldbank.org/curated/en/099063026190549947/pdf/BOSIB-8ff63426-3c40-412d-bad2-cc20a4e81.pdf>. Venezuela is not on the list of PRGT-eligible countries and, as a result, falls under the IMF's Sovereign Risk and Debt Sustainability Framework for Market Access Countries (MAC SRDSF). That classification does not depend on whether Venezuela actually has access to capital markets.

¹⁰² "IMF Won't Participate in Venezuela Debt Restructuring," *Global Finance*, May 15, 2026, <https://gfmag.com/news/imf-wont-participate-in-venezuela-debt-restructuring/>. More recently, the interactions between the interim authorities and the IMF have increased, including a first technical visit to

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framework and the DSA, which means that, absent IMF involvement, the resulting analysis will lack an institutional anchor.¹⁰³

From a legal perspective, the DSA must, in any case, fulfill the mandatory requirements explained in the previous section to serve as a legitimate tool in the debt workout. In summary, those requirements are the following:

- The Central Bank must provide economic information.
- Debt levels must be based on the registers maintained by the ONCP and on the reconciliation process that must be conducted.
- It is also necessary to consider the debt reports delivered to the National Assembly, as well as the information contained in the budget laws.
- Compiling this information must follow the principles of transparency and accountability.

However, state fragility has limited the scope and quality of available official economic data, creating numerous gaps that private assessments by financial advisors cannot fill. The IMF could play a further role here. Venezuela is covered by the IMF's FCS Strategy, which aims to strengthen state capacities, especially to produce accurate, timely, and credible

Caracas in decades, in July, and the expected opening of an office in Caracas in 2027. See "FMI volverá a usar datos oficiales de Venezuela en sus estimaciones económicas, según Bloomberg," *Banca y Negocios*, October 5, 2026, <https://www.bancaynegocios.com/fmi-volvera-a-usar-datos-oficiales-de-venezuela-en-sus-estimaciones-economicas-segun-bloomberg/>. The IMF has begun incorporating official data, signaling progress in rebuilding statistical capacity. See International Monetary Fund, *World Economic Outlook*, October 2026: Online Statistical Appendix (Washington, DC: IMF, 2026), 5 (noting, for Venezuela, that "[h]istorical series have been revised to incorporate official data where this has been made available"), [<https://www.imf.org/-/media/Files/Publications/WEO/2026/october/English/statsappendix.ashx>]. The same note, however, states that "estimates of public debt are not published due to market sensitivity considerations," which confirms that no official public estimate of the debt stock is yet available.

¹⁰³ As explained in the introduction, Centerview promised the framework and DSA by June, but so far there is no public information on whether those analyses have been produced. In any case, under current institutional conditions, the only way to produce a DSA in the short term is without the IMF's comprehensive support and amid the fragile institutional conditions explained in this section.

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statistical data.¹⁰⁴ As a result, the Fund's technical assistance could help rebuild the skills needed to produce precise, trustworthy DSA reports.¹⁰⁵

The key conclusion is that Venezuela cannot produce a DSA outside the fiscal institutions in place. The information needed to build the analysis and the methodology must follow the public debt framework explained in the prior section. To that end, (i) the information must be provided by the Central Bank and (ii) the sustainability scenarios must take into consideration the policy goals defined in Articles 311 and 312 of the Constitution. Therefore, a necessary step is to rebuild the Central Bank's capabilities in line with the Constitution's principles of independence and autonomy.¹⁰⁶ The ONCP's technical capacity must also be restored.

VI. Legal particularities of international bonds: collective action problems, the statute of limitations, and acceleration

Several particularities should be considered regarding international bonds, including collective action problems, the statute of limitations, and acceleration.

A major challenge in debt restructuring is the collective nature of bonds. Traditionally, changing the original contract terms requires the approval of each bondholder. Moreover, this coordination problem is compounded by

¹⁰⁴ Venezuela is included in the FCS list prepared by the IMF for the 2027 fiscal year (<https://www.imf.org/-/media/files/topics/fragile-conflict-affected-states/fy27-list-of-fragile-and-conflict-affected-states-fcs-final.pdf>). Because Venezuela has been included since 2025, the IMF should prepare a Country Engagement Strategy for Venezuela. Regarding the implications of such a strategy, see my comments in José Ignacio Hernández G., "Venezuela and the FCS Program at the IMF" (n 20).

¹⁰⁵ Under the IMF's Capacity Development initiative, the Fund may prioritize restoring the ability to generate precise and reliable macroeconomic data. See Stephanie C. Medina Cas, Yasmin Alem, and Jacinta Bernadette Shirakawa, "Building Statistical Capacity in Fragile and Conflict-Affected States," IMF Working Paper No. 2022/045 (Washington, DC: International Monetary Fund, 2022), 41.

¹⁰⁶ Articles 318 and 319, Constitution. The Central Bank's effectiveness partly relies on its autonomy and independence from the Executive. An independent Central Bank serves as a credible anchor, enhancing the trustworthiness of the information it provides, thereby fostering better coordination around the DSA.

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other creditors—such as multilateral institutions, foreign governments, suppliers, and investors—whose interests often diverge from those of bondholders. Because no international framework streamlines creditor coordination based on bankruptcy principles, restructuring efforts often incur high coordination costs, encouraging holdouts.¹⁰⁷

To address this problem, bond contracts evolved to incorporate collective action clauses (CACs). Widely adopted in New York-law sovereign bonds in 2003, drawing on lessons from the Argentine crisis, CACs have since evolved into enhanced models that include “two-limb” aggregation (with a single threshold across all series and a separate threshold for each series).¹⁰⁸ However, the Venezuelan international bonds do not fully benefit from this innovation.

Of the Republic's bonds, three series lack CACs and require unanimous consent.¹⁰⁹ Ten series carry a 75% reserved-matter threshold, with ordinary (non-payment) modifications at 66⅔%.¹¹⁰ Two series carry a higher 85% reserved-matter threshold, and likewise a 66⅔% threshold for ordinary modifications.¹¹¹ In all cases, the aggregation model is the same, and this is critical: series by series only, with no cross-series aggregation, so each series stands as a separate binding exercise. By contrast, none of the PDVSA series

¹⁰⁷ Regarding this collective action problem, see Lee C. Buchheit, Guillaume Chabert, Chanda DeLong, and Jeromin Zettelmeyer (n 95).

¹⁰⁸ W. Mark C. Weidemaier and Mitu Gulati, “A People's History of Collective Action Clauses,” *Virginia Journal of International Law* 54, no. 1 (2013): 51–96. See also Anna Gelpern, Ben Heller, and Brad Setser, “Count the Limbs: Designing Robust Aggregation Clauses in Sovereign Bonds,” in *Too Little, Too Late: The Quest to Resolve Sovereign Debt Crises*, edited by Martin Guzman, José Antonio Ocampo, and Joseph E. Stiglitz (New York: Columbia University Press, 2016), 109–143.

¹⁰⁹ The 13.625% bonds due 2018 comprise two separate instruments, each constituting a separate series, with identical coupon and maturity but issued under different fiscal agency agreements: one under the Fiscal Agency Agreement (FAA) dated August 6, 1998 (ISIN US922646AT10), and the other under the FAA dated July 25, 2001 (ISIN USP9395PAA95). The third series is the 9.25% bonds due 2027, issued under the FAA dated September 3, 1997 (ISIN US922646AS37).

¹¹⁰ The 2019, 2020, 2022, 2023, 2024, 2025, 2026, 2028, 2031, and 2038 series are governed by the 2001 FAA, and its Amendment No. 2 (March 25, 2005). Those series are designated “Type B Collective Action Securities.”

¹¹¹ The 7% bonds due December 2018 (issued under the 2001 FAA, as amended by Amendment No. 1, dated September 19, 2003) and the 9.375% bonds due 2034 (issued under the 1998 FAA, as amended by Amendment No. 1, dated January 14, 2004).

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incorporates CACs. Issued under New York-law trustee indentures rather than the Republic's fiscal agency structure, every PDVSA note reserves payment-term modifications to the unanimous consent of each directly affected holder.

As a result of this contractual design, the restructuring will entail significant coordination costs, which could increase given the numerous uncertainties related to the DSA. Hence, holdout risk could be high.¹¹²

To reduce those costs, the Government may rely on traditional carrot-and-stick tools.¹¹³ Traditional sticks include exit consents, while carrots include value recovery instruments (VRIs), particularly oil warrants, which would be favored by policies aimed at boosting private investment in the oil sector. However, current economic sanctions regulations hamper those tools, as the next section explains.

Another legal issue concerns the implications of New York's six-year statute of limitations (SOL). Because Venezuela began defaulting on the bonds in October 2017, the limitations period began expiring, series by series, in October 2023. Extending the SOL required action on two distinct planes: New York law governs the bonds' obligations, but Venezuelan public law governs the issuer's capacity – that is, who may lawfully bind the issuer to extend the SOL. U.S. recognition policy created some obstacles.

Successive attempts were made to extend the SOL, but they failed because of the recognition policy. First, in March 2023, the Maduro government – through the Finance Ministry and PDVSA – announced a unilateral suspension of the limitations period. That announcement had no binding effect in the United States. Because the U.S. government had not recognized

¹¹² On these risks, see Lee C. Buchheit and Mitu Gulati, "How to Restructure Venezuelan Debt," *Economic & Financial Review* 25 (2018): 63–85. For possible strategies based on PDVSA's bonds, see Lee C. Buchheit and Mitu Gulati, "Deterring Holdout Creditors in a Restructuring of PDVSA Bonds and Promissory Notes," *Capital Markets Law Journal* 13, no. 2 (2018): 148–151, <https://doi.org/10.1093/cmlj/kmy007>.

¹¹³ Lee C. Buchheit, Guillaume Chabert, Chanda DeLong, and Jeromin Zettelmeyer, "The Restructuring Process," in *Sovereign Debt: A Guide for Economists and Practitioners*, edited by S. Ali Abbas, Alex Pienkowski, and Kenneth Rogoff (Oxford: Oxford University Press, 2019), 346.

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the Maduro administration as Venezuela's legal representative since January 2019, Maduro could not bind the Republic or PDVSA in U.S. courts. Second, in August 2023, the fourth legislature of the National Assembly approved a resolution purporting to extend the SOL until December 31, 2028, and inviting decentralized entities such as PDVSA to follow suit. But the resolution, standing alone, produced no direct legal consequences in New York.

Ultimately, the issue was resolved through court proceedings rather than a tolling agreement. As reported in October 2023, certain bondholders filed claims in the Supreme Court of the State of New York, County of New York, on the Republic's and PDVSA's bonds; the issuers and those bondholders then entered stipulations of discontinuance without prejudice, by which the defendants agreed to extend the statute of limitations until December 31, 2028. This stipulation-based route was a second-best solution compared with a tolling agreement—a more efficient and transparent instrument—but it avoided the unresolved question of who could sign a tolling agreement on behalf of the Republic and PDVSA.¹¹⁴

Hence, any restructuring of the international bond must also address whether claims could have been impaired by the SOL, which will depend on the applicable law. Bonds governed by New York law, as explained, are subject to the six-year statute, which was addressed by the litigation strategy regarding some bondholders' claims. Under Venezuelan law, the SOL depends on the type of claim. Financial claims covered by the LOAFSP are subject to a ten-year statute of limitations for principal and a three-year

¹¹⁴ Stipulation and Order of Discontinuance Without Prejudice, *Aurelius Capital Master, Ltd. v. Bolivarian Republic of Venezuela*, No. 655071/2023, NYSCEF Doc. No. 13 (N.Y. Sup. Ct. Nov. 22, 2023) (Masley, J.), and Stipulation and Order of Discontinuance Without Prejudice, *Aurelius Capital Master, Ltd. v. Petróleos de Venezuela, S.A.*, No. 655041/2023, NYSCEF Doc. No. 14 (N.Y. Sup. Ct. Nov. 22, 2023) (Masley, J.).

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statute of limitations for interest.¹¹⁵ The ordinary SOL for obligations not covered by the LOAFSP is ten years.¹¹⁶

Finally, acceleration is another important legal issue. Although Venezuela defaulted on its international bonds, bondholders have not necessarily fulfilled the conditions to formally declare an event of default and accelerate the bonds. This is the case for the Republic's 7.65% 2025 and 9.375% 2034 bonds.¹¹⁷ This issue could be clarified as part of the debt reconciliation process.

VII. The impact of the economic sanctions regulations and Executive Order 14373

Under the current framework of the Venezuelan Sanctions Regulations (VSR), the following restrictions apply to the public debt workout:

- The entire Venezuelan government is subject to sanctions. As a result, all dealings with the Government are generally prohibited. This ban is explicit for (i) transactions within the United States and (ii) those involving U.S. persons.¹¹⁸ Transactions conducted outside the United States by non-U.S. persons are not prohibited as such, but they may expose those persons to so-called secondary sanctions.¹¹⁹
- The Government of Venezuela cannot issue new bonds. Therefore, any bond exchange will require an OFAC license.¹²⁰
- General License 58 authorizes the Government of Venezuela (including the Republic and PDVSA) only to engage advisors and take

¹¹⁵ Article 91, LOAFSP.

¹¹⁶ Article 1977, Civil Code. Claims related to property rights (real actions) are subject to a twenty-year statute.

¹¹⁷ According to the N.Y. Sup. Ct. proceedings (n 114).

¹¹⁸ EO 13857, dated January 25, 2019, and EO 13884, dated August 5, 2019.

¹¹⁹ This results from the so-called secondary sanctions covered by EO 13884.

¹²⁰ See General Licenses 3I and 9H (October 18, 2023).

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preparatory steps. To launch the debt restructuring and engage in direct negotiations with creditors, OFAC must issue a new license (or amend the current license).¹²¹

- Creditors cannot enter into any settlement agreement regarding their claims.¹²²
- Creditors cannot enforce any writ of attachment or similar measure against assets of the Government of Venezuela.¹²³
- Holders of the PDVSA 2020 notes are prevented from enforcing the collateral over 50.1% of Citgo Holding, Inc.'s shares.¹²⁴

EO 14373 strengthened this framework by establishing an “oil fund.” All payments owed to the Government of Venezuela from the sale of natural resources, especially oil, must be deposited into the Foreign Government Deposit Funds (FGDF), which the Treasury Department manages.¹²⁵

Following the 2026 reform of the Organic Hydrocarbons Law,¹²⁶ oil exports are possible through two channels: (i) through PDVSA, which

¹²¹ Section (b), General License 58.

¹²² Section (b)(1), General License 58. Other licenses reinforce the prohibition. For instance, General License 52C (September 14, 2026), while authorizing otherwise prohibited transactions with PDVSA, does not authorize transactions to settle bonds and debt, the entry into a settlement agreement, or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process, or debt swaps. See Section (d)(1), (2), and (4).

¹²³ This prohibition derives from the EOs and the designation of all properties of the Government of Venezuela as “blocked property.” As explained, Section (d) of General License 52C and Section 3 of EO 14373 expressly confirm this prohibition.

¹²⁴ General License 5Z (September 16, 2026). The prohibition will expire on November 5, 2026, unless the suspension of General License 5 is renewed.

¹²⁵ Section 2 of EO 14373 describes the FGDF as the fund paid into, or held by, the U.S. government in specific Department of the Treasury accounts or funds on behalf of Venezuela or its agencies. Therefore, the FGDF encompasses funds from natural resource sales, including oil exports, that belong to the Government of Venezuela.

¹²⁶ See my analysis in José Ignacio Hernández G., “La reforma de la Ley Orgánica de Hidrocarburos de 2026: ¿El final de la era de la nacionalización petrolera?,” in Allan R. Brewer-Carías et al., *Ley Orgánica de*

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operates through its affiliate PPSA and traders such as Vitol,¹²⁷ and (ii) through international oil companies that have signed oil contracts with PDVSA's affiliates and joint ventures.¹²⁸ In the first channel, PDVSA owns all sales, whereas in the second, PDVSA owns only a portion under contractual production-sharing arrangements. In both cases, PDVSA's export participation includes contributions owed to the Republic, such as royalties and the integrated tax, which are included in the "government take."¹²⁹

Consequently, the Treasury Department controls the most important component of Venezuelan public finances: oil export revenues. The oil export revenues that belong to the Government of Venezuela (particularly the Republic and PDVSA) are considered blocked property and, therefore, cannot be attached or seized.¹³⁰ The U.S. government is also the custodian and, in that capacity, has the authority to use, or authorize the use of, the FGDF.¹³¹ Hence, the Government of Venezuela can neither control nor use the oil export revenues.¹³²

This control creates tensions with constitutional and statutory provisions that grant the Government of Venezuela sovereignty over oil revenues,

Hidrocarburos: Reforma de 2026, Colección Textos Legislativos 61 (Caracas: Editorial Jurídica Venezolana International, 2026), 125-182.

¹²⁷ Those exports are covered by General License 46E (September 28, 2026) and General License 52C.

¹²⁸ Those exports are covered by General License 50C (August 27, 2026) and General License 52C.

¹²⁹ Based on the reform of the Organic Hydrocarbons Law (Official Gazette No. 6.978 extraordinary, dated January 29, 2026), its Regulation (Decree No. 5.381, Official Gazette No. 7.052 extraordinary, dated July 7, 2026), and the Hydrocarbons Ministry Resolution No. 024/2026 (Official Gazette No. 43.410, dated July 7, 2026), the royalties and integrated tax must be paid to the Republic. Therefore, when private contractors take over exports, a share of the proceeds rightfully belongs to the Republic and should be deposited into the FGDF. Conversely, the portion designated for private investors (such as for cost recovery) does not belong to the Government of Venezuela and should not be deposited in the FGDF. EO 14373 does not address this issue and confusingly refers to the Republic, the Central Bank, PDVSA, and other instrumentalities.

¹³⁰ Section 3(a), EO 14373. Unless licensed or otherwise authorized pursuant to the EO, "any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is prohibited, and shall be deemed null and void, with respect to the Foreign Government Deposit Funds." Section 4(a) states that the FGDF is the property of the Government of Venezuela.

¹³¹ Section 4(a), EO 14373.

¹³² Sections 3(b) and 6, EO 14373.

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based on the fiscal rule that all foreign currency obtained from hydrocarbon exports must be sold to the Central Bank.¹³³

As a result, the Government of Venezuela cannot access its main financial resource – oil revenues. At the same time, the EO strengthens protections for these revenues against creditors and prohibits enforcement actions. It also confirms that the FGDF, as government property, is a sovereign asset unrelated to commercial activities and enjoys immunity from jurisdiction.¹³⁴

VIII. The situation of PDVSA and Citgo

The debt-restructuring announcements suggest that the workout will include not only the Republic's debt but also claims against the national oil company, PDVSA.¹³⁵ Accordingly, it is necessary to consider PDVSA's particular legal situation, which involves four elements: (i) its legal nature as a corporation; (ii) its new role in the oil industry; (iii) the alter ego claims; and (iv) the auction sale process for PDV Holding's shares.

PDVSA is a corporation (*sociedad anónima*) whose sole shareholder is the Republic. Although it was designed to implement oil policies, it is organized under the Commercial Code. Consequently, PDVSA could have access to restructuring tools unavailable to the Republic, such as insolvency procedures. It is also possible to create a new national oil company, particularly to implement new oil policies in the sector.¹³⁶

¹³³ Article 311, Constitution, and Article 125, LBCV.

¹³⁴ Section 5, EO 14373.

¹³⁵ Regarding the implications of a coordinated workout of the Republic and PDVSA, see Mark Walker and Alice Chong, "Restructuring Certain Debt of the Republic of Venezuela and PDVSA on the Same Terms" (March 8, 2018), <https://ssrn.com/abstract=3136176>.

¹³⁶ Regarding this option, see my analysis in José Ignacio Hernández G., "Hacia una regulación mercantil de protección de activos de empresas públicas en caso de insolvencias," *Revista Venezolana de Derecho Mercantil*, no. 1 (2018): 312. Regarding the implications of PDVSA's commercial nature and the possibility of creating a new oil company, see Fulvio Italiani, Carlos Omaña, and Roland Pettersson, "Refinancing Venezuela's Debt: Local Legal and Policy Issues," in *The Guide to Restructuring*, 2nd ed. (London: Latin Lawyer, 2019), 148. See generally Steven T. Kargman, "Venezuela's Potential Debt Restructuring and Economic Recovery Efforts: Some Key Legal and Policy Challenges," *Revista Venezolana de Legislación y Jurisprudencia*, no. 13 (2020): 163–190; and Mark Walker and Richard Cooper, "Venezuela's Restructuring: A Realistic Framework" (September 19, 2017), <https://ssrn.com/abstract=3039678>.

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These policy options are particularly relevant given the myriad claims against PDVSA. Beyond international bonds, the national oil company has faced claims from joint-venture partners, contractors, and suppliers over breaches of contract stemming from its operational and financial collapse. Some commercial claims were converted into promissory notes, further complicating the debt perimeter.¹³⁷

The 2026 reform of the Organic Hydrocarbons Law ended PDVSA's role as the exclusive oil operator. Private investors, including international oil companies, may now carry out oil activities through contracts with PDVSA affiliates or through joint ventures. PDVSA remains the contracting party for private investors engaged in exploration, production, and marketing. As a result, PDVSA's share of oil revenues will decline, as a portion of those revenues will now flow directly to private investors. This reduced cash flow is an important factor in assessing PDVSA's ability to service its debt.¹³⁸

Additionally, the legal distinction between the Republic and PDVSA has narrowed because foreign courts have pierced the corporate veil, especially in Portugal and the United States. In Portugal, veil piercing relies on commercial law, whereas in the United States, it stems from the alter ego doctrine. U.S. courts have adopted two different approaches to interpreting this doctrine.¹³⁹

A narrow interpretation of the alter ego doctrine requires proof of the Republic's significant political control over PDVSA's day-to-day operations; mere routine oversight is insufficient. The U.S. District Court for the District of Delaware and the U.S. Court of Appeals for the Third Circuit adopted this interpretation in 2018 and 2019 and, applying it, found that PDVSA was the Republic's alter ego.¹⁴⁰ Under this narrow approach, the U.S. District Court

¹³⁷ See Lee C. Buchheit and Mitu Gulati, "Deterring Holdout Creditors in a Restructuring of PDVSA Bonds and Promissory Notes" (n 112).

¹³⁸ José Ignacio Hernández G., "La reforma de la Ley Orgánica de Hidrocarburos de 2026" (n 126).

¹³⁹ José Ignacio Hernández G., "The Venezuela Alter Ego Saga: Some Introductory Lessons for Public Debt Litigation and National Oil Companies" (October 14, 2024), <https://ssrn.com/abstract=4987154>.

¹⁴⁰ *Crystallex Int'l Corp. v. Bolivarian Republic of Venezuela*, 932 F.3d 126, 152 (3d Cir. 2019).

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for the Southern District of New York concluded that PDV Holding, Inc. is not PDVSA's alter ego.¹⁴¹

A broader interpretation, based on economic control, can lead to the same conclusion even without day-to-day political control, as the U.S. District Court for the District of Delaware and the Third Circuit determined in 2023. Under this view, because the Republic is PDVSA's only shareholder and benefits economically from the company, the national oil company can be considered an alter ego.¹⁴²

In this context, an alter ego claim may be brought, given that the Sectoral Vice Presidency of Economy announced the restructuring of both the Republic's and PDVSA's debt. In addition, both entities share the same legal and financial advisors.¹⁴³

To mitigate alter ego risk, it is essential to restore PDVSA's autonomy and independence. This goal is even more critical now, as the national oil company has taken on the role of contracting party for private investors. However, this contracting function overlaps with the Hydrocarbons Ministry's regulatory authority, introduced through the reforms adopted since January 2026.¹⁴⁴

Finally, any debt restructuring should consider the auction sale process for the shares of PDV Holding, Inc., which is currently on appeal before the Third Circuit.¹⁴⁵ According to the November 25, 2025, opinion of the U.S.

¹⁴¹ *G&A Strategic Investments I LLC v. Petróleos de Venezuela, S.A.*, Nos. 23-cv-10766, 23-cv-10772, 24-cv-04448 (JSR) (S.D.N.Y. June 25, 2025) (Rakoff, J.). The appeal is pending before the Second Circuit.

¹⁴² *OI European Group B.V. v. Bolivarian Republic of Venezuela*, 73 F.4th 157 (3d Cir. 2023).

¹⁴³ In 2023, the U.S. District Court for the District of Delaware determined that the debt restructuring guidelines approved by the fourth legislature's interim government in 2019 for the Republic and PDVSA showed evidence of alter ego relationships. *OI European Group B.V. v. Bolivarian Republic of Venezuela*, 663 F. Supp. 3d 406 (D. Del. 2023). However, the coordinated restructuring of the Republic's and PDVSA's debt does not indicate widespread control but rather a rational response to the significance of fiscal oil revenues in Venezuela.

¹⁴⁴ See Decree No. 5.381 (n 129). Under that Decree, the Ministry, rather than PDVSA, is the entity in charge of controlling the oil industry.

¹⁴⁵ Regarding the implications for Citgo, see Katherine Shen, "Green Light, Red Tape: Barriers to Venezuela's Debt Restructuring," May 15, 2026,

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District Court for the District of Delaware, the priority order of the writ holders is as follows:

Priority	Claimant	Total Claim (\$) estimated by the Court as of 6/30/2026
1	Crystallex Corporation	\$1,019,679,606.70
2	Tidewater Caribe S.A., Tidewater Investment SRL	\$78,433,673.51
2	Tidewater Caribe S.A., Tidewater Investment SRL (Fees)	\$2,872,796.02
3	ConocoPhillips (Petrozuata/Hamaca) (19-mc-00342)	\$1,411,834,614.32
4	OI European Group B.V.	\$686,901,600.91
4	Huntington Ingalls Incorporated	\$139,450,093.97
5	ACL1 Investments Ltd., ACL2 Investments Ltd., LDO (Cayman) XVIII Ltd.	\$118,908,075.68
6	Red Tree Investments, LLC (19-cv-2519)	\$218,150,048.92
6	Red Tree Investments, LLC (19-cv-2523)	\$126,066,431.15
6	Red Tree Fee Judgment	\$2,879,450.50
7	Rusoro Mining Limited	\$1,568,585,159.10
8	ConocoPhillips (Corocoro) (22-mc-00264)	\$48,296,957.36
9	Koch Minerals Sarl and Koch Nitrogen International	\$470,881,329.32
10	Gold Reserve Inc.	\$1,255,605,277.03
11	Siemens Energy Inc.	\$232,705,880.67

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12	Consortio Andino, S.L., Valores Mundiales, S.L.	\$718,140,557.92
13	Contrarian Capital Management, L.L.C. (October 2020 Judgment)	\$291,263,157.16
13	Contrarian Capital Management, L.L.C. (May 2021 Judgment)	\$60,200,257.17
13	Contrarian Capital Management, L.L.C. (October 2021 Judgment)	\$44,451,328.66
14	ConocoPhillips (ICSID) (22-cv-00464)	\$11,487,737,435.78
15	Gramercy Distressed Opportunity Fund LLC (18-1371-CRC)	\$258,703,766.79
15	Gramercy Distressed Opportunity Fund LLC (18-1373-CJN)	\$281,594,295.25
16	Saint-Gobain Performance Plastics Europe	\$57,412,278.65
Total		\$20,580,754,072.54

Table No. 3. Writs of attachment on the shares of PDV Holding, Inc. U.S. dollars.
Source: U.S. District Court for the District of Delaware.

Under the sale order awarding the bid to Amber Energy for approximately \$8 billion, the court will distribute \$5.9 billion among the writ holders. By comparison, approximately \$2.1 billion will be used to settle the PDVSA 2020 claims, which are currently pending before the Second Circuit.¹⁴⁶

¹⁴⁶ On October 17, 2025, the U.S. District Court for the Southern District of New York rejected the claim by PDVSA and PDV Holding, ruling that under Venezuela's Constitution, PDVSA is exempt from the rules governing national public interest contracts. Consequently, the indenture and pledge agreements related to the 2020 notes did not require prior legislative approval. The court ordered PDVSA to settle the

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The Republic and PDVSA have the right to satisfy the judgments before consummation of the sale transaction.¹⁴⁷ Therefore, a debt restructuring could prevent the auction sale of the shares if it resolves the outstanding claims. Achieving this goal depends on the workout covering all claims, not just the international bonds, which make up only part of the total claims pending in Delaware. This link between the restructuring and the auction sale underlies the motion to hold the appeal in abeyance that the Republic, represented by the interim authorities, filed before the Third Circuit on October 1, 2026, and that PDVSA joined the next day.¹⁴⁸

The combination of oil policy reforms aimed at boosting production and the lack of a comprehensive debt restructuring could increase coordination costs among creditors, who would compete to collect on their claims and might rely on expectations of increased oil revenues.¹⁴⁹

IX. Conclusions

The first legal issue is the debt perimeter. Several Venezuelan debt claims, particularly external ones, remain unliquidated and undetermined. Therefore, to advance a debt restructuring, it would be necessary to initiate a debt reconciliation process under Venezuelan fiscal control regulations.

outstanding amount, and the Second Circuit is currently reviewing the case. *Petróleos de Venezuela, S.A. v. MUFG Union Bank, N.A.*, No. 19 Civ. 10023 (KPF) (S.D.N.Y. Oct. 17, 2025)

¹⁴⁷ See, for instance, *Crystallex Int'l Corp. v. Bolivarian Republic of Venezuela*, No. 17-mc-151 (LPS), ECF No. 481, ¶ 29 (D. Del. Oct. 11, 2022) (Sixth Revised Proposed Order Establishing Sale and Bidding Procedures). This paper does not address the conditions for exercising this right.

¹⁴⁸ After the vice president was recognized as the sole head of state, the legal representation shifted from the fourth legislature to the interim authorities. On October 1, 2026, they asked the Third Circuit to hold the appeal in abeyance, arguing, among other considerations, that the auction sale could prevent the efficient conduct of the debt restructuring process. See Appellant Venezuela's Mot. to Hold Appeal in Abeyance, *Crystallex Int'l Corp. v. Bolivarian Republic of Venez.*, Nos. 25-3347 et al. (3d Cir. Oct. 1, 2026), ECF No. 278-1; Appellant Petróleos de Venezuela, S.A.'s Joinder in Mot. to Hold Appeal in Abeyance, *Crystallex Int'l Corp. v. Bolivarian Republic of Venez.*, Nos. 25-3347 et al. (3d Cir. Oct. 2, 2026), ECF No. 279. On October 13, 2026, however, the U.S. government declined to present its view on the motion ECF No. 303).

¹⁴⁹ See Anna Gelpern, Katherine Shen, and Marcelo Marzouka, "Who Gets Venezuela's Next Barrel?," *RealTime Economics* (PIIE), October 2, 2026, <https://www.piie.com/blogs/realtime-economics/2026/who-gets-venezuelas-next-barrel> (concluding that "[a] durable settlement in Venezuela will need to have broad-based buy-in and rest on published, verifiable data on the claims against it, the claim terms, the creditors who hold them, and the resources available to meet them. Getting it right in Venezuela could give international debt architecture reform a fighting chance").

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The second legal issue concerns the constitutional authority to engage in a debt workout. Challenges based on the contested constitutional legitimacy of the Maduro government, along with the possible infringement of the constitutional provisions on the presidential vacancy temporarily filled by the vice president, raise doubts that may undermine the process's legitimacy. Those doubts must be weighed against the Constitutional Chamber's January 3 opinion and the constitutional transition framework, which offer possible grounds to sustain the interim authorities' mandate, and against U.S. recognition, which may limit the effects of any invalidity on contracts governed by New York law.

The third legal issue that must be considered is compliance with the Venezuelan regulatory framework for debt restructuring. To comply with the constitutional principles applicable to restructuring, such as transparency and accountability, the competent and capable agencies, including the ONCP, must properly implement this framework.

The fourth legal issue to map concerns the institutional challenges arising from state fragility. Under the IMF's FCS Strategy, Venezuela requires assistance to build statistical capacity as part of broader reforms to restore the Central Bank's autonomy and independence and to strengthen the ONCP's technical capacity. If the IMF is not involved in the preparation of the macro framework and DSA, institutional fragility could undermine the credibility of the workout's fiscal envelope.

Regarding international bonds, the fifth legal issue that should be considered is the contractual architecture of these bonds. The limited scope of CACs could create additional coordination problems. Other angles to consider are the SOL's implications and acceleration.

The sixth legal issue concerns the interaction between economic sanctions and Venezuelan public law. The VSR and EO 14373 prevent the enforcement of public-law provisions that seek to centralize foreign currency generated by oil exports at the Central Bank. In addition, this regulation undermines

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the Venezuelan government's ability to use traditional "carrot-and-stick" tools. By contrast, through OFAC licensing and its custody of the FGDF, the U.S. government can shape the workout framework and potentially address holdout risk.

Finally, the seventh legal issue to consider is PDVSA. When the international bonds were issued, PDVSA was the sole operator and the entry point to oil revenues — the key component of Venezuelan finances. This is no longer the case, with PDVSA gradually transitioning into a contracting entity. The debt workout must weigh this change, as well as the pending auction sale that endangers PDVSA's most valuable foreign asset: Citgo.

The legal map of the Venezuelan debt restructuring shows that this is a unique case with no comparable precedent. The scope and variety of the claims; the constitutional challenges following the events of January 3; the constraints on effectively implementing the regulatory framework governing the restructuring; the challenges arising from pervasive institutional fragility and the IMF's unclear role; the terms of the international bonds; the impact of economic sanctions; and the situation of PDVSA and Citgo all create distinctive legal conditions that must be navigated to advance a successful debt restructuring.