

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

INFRARED ENVIRONMENTAL  
INFRASTRUCTURE GP LIMITED,  
EUROPEAN INVESTMENTS (MORÓN) 1  
LIMITED, EUROPEAN INVESTMENTS  
(MORÓN) 2 LIMITED, EUROPEAN  
INVESTMENTS (OLIVENZA) 1 LIMITED,  
and EUROPEAN INVESTMENTS  
(OLIVENZA) 2 LIMITED,

*Petitioners,*

v.

KINGDOM OF SPAIN,

*Respondent.*

Civil Action No. 1:20-cv-00817-JDB

**Hon. John D. Bates**

**THE KINGDOM OF SPAIN'S OPPOSITION  
TO PETITIONERS' MOTION FOR SUBSTITUTION**

The Kingdom of Spain opposes Petitioners' Motion for Substitution (ECF No. 56). Under Federal Rule of Procedure 25(c), substitution is permissive and left to the Court's discretion. Courts permit substitution when it promotes the efficient resolution of the dispute. The proposed substitution offers no gain in efficiency. Spain's motion to dismiss is fully briefed and ripe for decision. The Court should exercise its discretion to deny the Motion for Substitution and allow this case to resolve between the proper parties.

Federal Rule of Procedure 25(c) governs substitution when a party transfers its interest in the outcome of the dispute. "If an interest is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party." Fed. R. Civ. P. 25(c). Rule 25(c) is "wholly permissive" and "does not require [that] transferees . . . be substituted." *Commissions Imp. Exp.*,

*S.A. v. Republic of Congo*, 118 F. Supp. 3d 220, 231 (D.D.C. 2015). The “decision whether to grant or deny a Rule 25(c) motion is a matter within the district court’s discretion.” *Stewart Title Guar. Co. v. Lewis*, 2018 WL 1964870, at \*1 (D.D.C. Feb. 16, 2018).

“The primary basis for deciding [a Rule 25(c)] motion is whether substitution would facilitate the conduct of the litigation.” *Paleteria La Michoacana, Inc. v. Productos Lacteos Tocumbo S.A. De C.V.*, 247 F. Supp. 3d 76, 86 (D.D.C. 2017) (internal quotation marks omitted). Courts typically “focus on considerations of convenience and economy” in this context because Rule 25(c) is a discretionary, procedural mechanism. *Paleteria La Michoacana*, 247 F. Supp. 3d at 86 (internal quotation marks omitted); *see also Branch Banking & Tr. Co. v. Morehouse*, 2011 WL 13257608, at \*3 (D.D.C. Oct. 11, 2011).

Substituting Basket Renewable Investments LLC (“Basket”) into this action would not “facilitate the conduct” of this litigation. *Paleteria La Michoacana*, 247 F. Supp. 3d at 86 (internal quotation marks omitted). Basket was not a party to the underlying arbitration; it has no first-hand knowledge of those proceedings or the issues relevant to this case. Indeed, as a U.S. entity, Basket could never have asserted any claim against Spain under the ECT.<sup>1</sup> Spain’s motion to dismiss is fully briefed. For the reasons advanced by Spain in its briefing, the Court should grant the pending motion to dismiss, which would “bring[] this litigation to a close” and render “substitution . . . unnecessary.” *Commissions Imp. Exp., S.A.*, 118 F. Supp. 3d at 231.

For the foregoing reasons, Spain respectfully requests that the Court deny Petitioners’ Motion for Substitution.

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<sup>1</sup> US entities are afforded no rights under the ECT because the United States is not a signatory. Petitioners were incorporated in EU Member States to bring themselves within the ambit of the ECT. Now that they have an Award, which ostensibly grants them monetary relief under that treaty, they now seek to restructure the interest to an entity that could never have brought the claim in the first place.

Dated: February 20, 2023

Respectfully submitted,

/s/ Jonathan M. Landy

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 20, 2023, I caused the foregoing to be filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all registered participants.

/s/ Jonathan M. Landy  
Jonathan M. Landy