IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Titan Consortium 1, LLC, *Petitioner*, v. The Argentine Republic, *Respondent*.	Civil Action No. 1:21-cv-02250 (JMC)

NOTICE OF SUPPLEMENTAL AUTHORITY

In support of its opposition to Respondent Republic of Argentina's ("Argentina") Motion to Dismiss ("MTD Opp.," Dkt. 13), Petitioner Titan Consortium 1, LLC ("Titan") respectfully submits this notice to advise the Court of supplemental authority since briefing was completed on the motion on February 4, 2022. In March 2023, the American Law Institute published the first ever Restatement of the U.S. Law of International Commercial and Investor-State Arbitration. *See* American Law Institute, *Restatement of the Law: The U.S. Law of International Commercial and Investor-State Arbitration*, https://www.ali.org/publications/show/us-law-international-commercial-arbitration. The Restatement rejects Argentina's position in its motion to dismiss that a 3-year federal limitations period is applicable to enforcement actions—like this one—under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the "ICSID Convention") and its implementing legislation.

Instead, the Restatement recognizes that in enforcing ICSID Convention awards, courts should adopt "for limitations purposes" the same period they apply in enforcing "final judgments of a sister-state court." Restatement (Third) U.S. Law of Int'l Comm. Arb. § 5.6 (Reporters' Notes). The Restatement explains that this approach flows both from first principles and

precedent. *First*, "ICSID Convention Article 54(1) supports that position; it provides only that '[e]ach Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories *as if it were a final judgment of a court in that State*.'" *Id*. (emphasis added). *Second*, the Restatement underscores that the only court to consider this question—the U.S. District Court for the Southern District of New York—has reasoned that "'[b]ecause ICSID Convention awards are to be treated as final judgments of a state court—rather than as arbitration awards—the most analogous state statute of limitations is that which governs the enforcement of a final money judgment from the court of another state.'" *Id.* (quoting *Blue Ridge Invs., LLC v. Republic of Argentina*, 902 F. Supp. 2d 367, 388 (S.D.N.Y. 2012)). In *Blue Ridge*, that was New York's 20-year limitations period governing enforcement of money judgments, and here it is D.C.'s 12-year limitations period governing the same.

This Court should follow the Restatement approach. The Restatement is a significant legal development that provides a comprehensive compendium of the governing principles in U.S. investor-state arbitration law. As Justice Cardozo explained a century ago, the Restatements are invested with "unique authority … to persuade" and have the "power … to unify our law." Benjamin N. Cardozo, The Growth of the Law 9 (1924) (describing the role of the Restatements). And on the issue before the Court, the Restatement is entirely correct.

Titan continues to respectfully request that the Court deny Argentina's Motion to Dismiss.

Dated: November 2, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on November 2, 2023, I caused the foregoing notice to be filed with the Clerk for the U.S. District Court for the District of Columbia through the ECF system. Participants in the case who are registered ECF users will be served through the ECF system, as identified by the Notice of Electronic Filing.

/s/ Matthew D. McGill
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