

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

HULLEY ENTERPRISES LTD.,  
YUKOS UNIVERSAL LTD., and  
VETERAN PETROLEUM LTD.,

*Petitioners,*

v.

THE RUSSIAN FEDERATION,

*Respondent.*

Case No. 1:14-cv-01996-BAH

**PETITIONERS' NOTICE OF SUPPLEMENTAL AUTHORITY  
RELATING TO THE RUSSIAN FEDERATION'S MOTION TO EXTEND THE STAY**

Petitioners respectfully submit as supplemental authority *Process & Indus. Devs. Ltd. v. Fed. Republic of Nigeria*, No. 21-7003, 2022 WL 727292 (D.C. Cir. Mar. 11, 2022) (“*P&ID*”), which confirms that there is no reason for this Court to stay its consideration of the Russian Federation’s sovereign immunity defense—a defense that is, as this Court has previously recognized, a “threshold” issue. The *P&ID* Slip Opinion is attached hereto as Exhibit A.

Like this case, *P&ID* is a summary proceeding under the New York Convention to confirm an arbitral award against a sovereign defendant. Like the Russian Federation here, Nigeria claimed that there had been “fraud in the arbitration.” *Id.* at 4. Apparently on that basis, the “Federal High Court of Nigeria set aside the arbitral tribunal’s liability award.” *Id.* at 10. In the U.S. proceeding, Nigeria contended that the “arbitration exception” in the Foreign Sovereign Immunities Act (FSIA) “does not apply because P&ID lacks a valid and enforceable arbitral award.” *Id.*

The D.C. Circuit disagreed, and confirmed that an arbitral award’s validity and enforceability in other countries are *irrelevant* to the FSIA: “The application of the arbitration

exception here is straightforward, as all of the jurisdictional facts required by the statute exist.” *Id.* (citing *LLC SPC Stileks v. Republic of Moldova*, 985 F.3d 871, 877 (D.C. Cir. 2021) (“[T]he existence of an arbitration agreement, an arbitration award and a treaty governing the award are all jurisdictional facts that must be established.”)). “The district court need not determine the validity of the arbitral award as part of its [FSIA] jurisdictional inquiry.” *Id.* at 11.

The D.C. Circuit’s *P&ID* decision thus forecloses one of the Russian Federation’s principal arguments in support of its motion to stay this Court’s consideration of the FSIA defense. Specifically, the Russian Federation contends that Petitioners’ Awards against the Russian Federation “are now once again set aside,” and “no longer exist as a matter of Dutch law.” Dkt. 201-1, at 1, 13-14. Petitioners have already explained why this argument is wrong as a matter of Dutch law.<sup>1</sup> *P&ID* demonstrates that the argument is also wrong under the FSIA.

*P&ID*’s procedural history also demonstrates why this Court should not further stay its consideration of the Russian Federation’s FSIA defense. In *P&ID*, Nigeria’s interlocutory appeal of the FSIA issue caused a *fifteen-month delay*, during which time the district court “administratively closed” the case. *See P&ID*, 18-cv-594, Minute Order (Apr. 16, 2021) (“this case shall be administratively closed pending resolution of the interlocutory appeal”). During that time, the district court was barred from even receiving *briefing* on Nigeria’s other, non-FSIA defenses. *See Process & Indus. Devs. Ltd. v. Fed. Republic of Nigeria*, 962 F.3d 576 (D.C. Cir. 2020) (Nigeria could not be forced to brief merits before resolution of immunity defense). Therefore, the merits of *P&ID*’s petition to confirm its arbitral award still remain to be decided, years after *P&ID* began its confirmation action.

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<sup>1</sup> The Dutch Supreme Court’s decision does *not* revive the now twice-reversed judgment of The Hague District Court, which had set aside the Awards in 2016. *See* Dkt. 204-2 (Second Cohen Jehoram Decl.), ¶¶ 47-65.

Here, the Russian Federation intends to cause a similar delay, in this Court's consideration of the merits, by taking an interlocutory appeal of this Court's denial of its FSIA defense. That future delay, especially when added to the delays already incurred, is another reason why this Court should take up and resolve the FSIA issue now.

Dated: March 16, 2022

Respectfully submitted,

*/s/ Steven M. Shepard*

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**CERTIFICATE OF SERVICE**

I certify that on March 16, 2022, the foregoing document was filed electronically and served upon all counsel of record via the Court's CM/ECF filing system in accordance with the Federal Rules of Civil Procedure.

*s/ Steven M. Shepard*  
Steven M. Shepard