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## PDVSA Says Citgo Bidding Process ‘Improperly’ Favors Bondholders

- Company is objecting to changes in the bidding instructions
- Potential buyers required to address claims on PDVSA 2020 bond

By [Nicolle Yapur](#)

May 9, 2024 at 1:40 PM EDT

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Venezuela’s state-owned oil company is objecting to the bidding process for the court-ordered sale in July of a unit, [PDV Holding](#), that owns the US-based refiner [Citgo Petroleum](#).

Lawyers for [Petroleos de Venezuela SA](#) argued in a Delaware [court filing](#) Wednesday that a special master’s proposed instructions for taking bids next month “improperly advantage” investors who hold a defaulted PDVSA 2020 bond that is backed by a controlling stake in a subsidiary of PDV Holding, which owns the refiner.

PDVSA said a separate court fight has yet to determine the extent of claims by holders of the defaulted bond that matured in 2020. The special master’s process assumes that those holders will get some of the PDV Holding proceeds, which could discourage or interfere with the bidding process, the lawyers said.

“The use of such funds to pay holders of the PDVSA 2020 notes would violate this Court’s orders, and would fail to satisfy the Special Master’s obligation to ‘maximize’ the sale price of any assets to be sold,” the lawyers said.

The PDVSA bonds were issued in 2016 by the government of Nicolas Maduro, who faces US sanctions intended to force him hold free and fair elections. Opposition leader Juan Guaido — who in 2019 was recognized by the US as the legitimate leader of Venezuela — withheld a payment on the bonds that year, saying they were invalid because they were sold without the approval of the National Assembly.

PDVSA itself remains in the hands of the government in Caracas, but it's represented in US courts by an ad-hoc board appointed by the Guaido-led opposition, which has been fighting to protect Citgo from being seized, without much success.

Read More: [Venezuela Law Determines If PDVSA Bonds Valid, NY Court Says](#)

PDVSA's ad-hoc board has expressed a willingness to negotiate with key creditors, but no agreements have been reached. Meanwhile, Maduro has blamed the opposition for allowing what he calls the "theft" of PDVSA's most important overseas asset. US sanctions currently protect Citgo from seizure, so a license is required for the sale to go through.

According to the court filing, a bidding process that contemplates any payments or the "improper diversion of sales proceeds" to satisfy the PDVSA 2020 bondholders would reduce the value received by other creditors.

The second round of bids for PDV Holding is scheduled for June 11, with the sale set for completion the following month. Almost 20 creditors have obtained attachment judgments that allow them to collect their claims from the proceeds of the sale.

The PDVSA 2020 notes have long been a matter of contention in New York courts, with Venezuela's opposition claiming the bonds are not valid. The dispute has moved all the way to the state's top court, which decided in February that the validity of the bonds, and their pledge, must now be determined by a federal court under Venezuelan law.

PDVSA lawyers are also asking for the auction schedule to be modified to "accommodate concerns" over the bonds' litigation process.

On Thursday, US District Judge Leonard Stark, who is overseeing the sale of PDV Holding shares, ordered the special master to respond to PDVSA's objection no later than May 13, with a potential hearing on the matter scheduled for May 17.

<https://www.bloomberg.com/news/articles/2024-05-09/pdvsa-says-citgo-bidding-process-improperly-favors-bondholders>



## A tale of setbacks as Venezuela's Citgo heads to US auction

HOUSTON, Oct 22 (Reuters) - For the past four years, the United States protected oil refiner Citgo Petroleum from creditors seeking to seize Venezuela's foreign crown jewel for billions of dollars in claims. But on Monday, a U.S. judge will kick off an auction expected to place the Houston-based company in the hands of rivals or investors.

The auction could start a new chapter for the 113-year-old company, which has been owned by Venezuela for almost 40 years. An unknown is whether Biden administration's decision last week to ease energy sanctions on Venezuela could allow the country to repay creditors and end the lawsuit.

A senior U.S. State Department official in Washington last week said in a briefing the sanctions easing should not affect the auction. The U.S. separately extended Citgo's protection from creditors until January.

Reuters has tracked the court case for more than a year and has spoken with nearly two dozen people including employees, investors, board members, attorneys, U.S. officials, rivals and creditors involved with the company. The story they tell is one of miscalculations and a federal judge determined to make Venezuela pay its debts.

Citgo likely will end up next year in the hands of one or more of the largest refiners operating in the U.S., potentially leaving Venezuela with nothing, according to the people most closely involved.

Washington and Venezuela's political opposition wanted Citgo to anchor the country's economic future under a democratically elected government. But both have failed to break Venezuelan President Nicolas Maduro's grip on power since a disputed 2018 re-election.

Now, the forced auction, which involves a parent whose only asset is the refining firm, offers potential for raising some \$13 billion to pay a small number of a long list of Venezuela-linked creditors, according to official estimates. Few companies are expected to be able to bid for the entire business: three refineries, six pipelines, and 4,200 independent gasoline retailers.

The sale could become the biggest court auction ever held. Bidders are expected to include Marathon Petroleum, Saudi-owned Motiva Enterprises, Valero Energy and Koch Industries. Infrastructure investors might also place bids, according to people close to the matter.

Motiva, Valero and Citgo's ultimate parent, Venezuela's state oil company PDVSA, did not reply to requests for comment. Marathon, Citgo and the U.S. Treasury Department declined to comment.

The price tag and anti-trust concerns will limit the pool of bidders for the entire company, said Matthew Blair, managing director for refining research at financial firm Tudor, Pickering, Holt & Co.

"We expect it will have to be broken up," he said. In addition, "the assets come with some wholesale/retail gasoline exposure, which could make it tough for foreign buyers," Blair said.

Venezuela's chance of retaining some stake in Citgo is very slim, according to experts. When offered for sale in 2014, the company was valued at nearly \$12 billion, and its sharply improved profitability since then likely will draw higher bids. But the nation's foreign debt surpasses \$90 billion.

"Citgo will be lost. It is now just a matter of how long the auction will take. We won't be able to even find the leftovers," said Venezuela's former attorney general Jose Ignacio Hernandez.

## DETERMINED JUDGE

U.S. District Court Judge Leonard Stark in Delaware in 2019 found PDVSA was the alter ego of Venezuela, a rare court ruling that opened the door for Crystallex International to pursue shares in one of Citgo's parents, PDV Holding, to recoup losses from Venezuela's expropriation of its assets.

Venezuela had believed it was shielded from creditors' advances because U.S. courts generally treat corporations as separate from their owners. Since Citgo severed ties with PDVSA in 2019, the U.S. government has recognized a series of supervisory boards appointed by Venezuela's opposition-led National Assembly and its former head Juan Guaido.

"It was helpful to have the ad-hoc board," said Natalie Shkolnik, a litigation partner at law firm Wilk Auslander who has written about the finding. "It just wasn't enough to avoid the alter ego finding."

Venezuelan President Nicolas Maduro fought the boards' appointments, and recently said Citgo had been "kidnapped" by the U.S.

Stark, 54, methodically laid the groundwork for Monday's auction by hiring an investment bank and naming a court official to deal with U.S. agencies that protect Citgo.

His 2018 alter ego ruling for the first time tied PDV Holding to Venezuela's debts, a ruling Venezuela's lawyers continue to fight before the U.S. Supreme Court. The appeal is pending.

Stark declined to hand off the case to another judge after being promoted in 2022 to an appeals court. He this year hired investment banker Evercore Group to put financial data together and market the company.

Evercore is soliciting a stalking horse bid, or an initial bid, that could be disclosed this week. Such a bid could include firms with large arbitration awards, including ConocoPhillips.

Conoco said it is "pursuing all available legal avenues" to collect its three awards. Exxon declined to comment.

Stark early on recognized the case had broader reach than Citgo. He sent a court officer to the U.S. Treasury Department's Office of Foreign Assets Control, which has long blocked claims against Citgo, and received pre-clearance for the auction.

Stark did not reply to a request submitted to the court to be interviewed. Bidders are expected to submit confidential offers to Evercore.

"This auction is not an equitable or fair process. Only the first ones to arrive would be paid through the destruction of an asset," said Horacio Medina, who leads one of the boards overseeing Citgo. "The game is not over," he told Reuters, saying talks with creditors to reduce the auction's scope are ongoing.

## PROFITABLE BUSINESS, DASHED HOPES

Carlos Jorda, Citgo's well-respected CEO who was appointed in 2019 by Venezuela's congress, tackled years of poor maintenance that had been ignored by its Caracas-based parent, cut debt and improved finances.

Its three refineries ran at an average 98% of capacity in the last four quarters. Over that same period, the company's cumulative net income totaled \$4.92 billion, compared to his first year, when it earned \$246 million.

Jorda declined through a spokesperson to be interviewed.

But if Citgo and its boards fail to reach payment agreements before the winner bidders are declared next year, Venezuela, which bought Citgo to pursue an international strategy, will wind up empty-handed.

Citgo's 807,000 barrel per day refining network, which is geared toward processing Venezuela's heavy crude, is as critical today as when PDVSA acquired the company.

"Citgo will be strategic for Venezuela in the next 20-25 years, not only as a refining company, but with an expanded role," director Medina said. The company one day might compete with PDVSA by operating as a vertically integrated oil company with production assets in Venezuela.

Today, that appears a slim hope.

"Citgo's loss will cause a big moral damage to Venezuelans and will not bring benefits to many, except to a handful of lucky creditors that might squeeze into the auction," former attorney general Hernandez said.

<https://www.reuters.com/business/energy/tale-setbacks-venezuelas-citgo-heads-us-auction-2023-10-22/>



## PDVSA's Citgo-backed bonds are invalid, Venezuela opposition tells NY court

NEW YORK, April 3 (Reuters) - Lawyers for Venezuelan state-owned oil company Petroleos de Venezuela argued to New York state's highest court that the company's bonds backed by a majority stake in refiner Citgo Petroleum Corp are not valid.

Venezuela's opposition has controlled PDVSA's U.S. assets including Citgo since 2019, due to sanctions on President Nicolas Maduro's socialist government. The move in court is part of the opposition's push to prevent creditors from taking over Houston-based Citgo, the eighth-largest U.S. refiner which last year processed some 811,000 barrels per day of crude oil.

Sanctions block bondholders from taking Citgo through April 20. While the U.S. government has renewed that measure several times when past deadlines approached, the most recent extension was for just three months, which could signal a policy shift.

PDVSA defaulted on bonds maturing in 2020, which were backed by a 50.1% stake in Citgo Holding Inc, a Delaware-registered entity through which PDVSA owns Citgo.

Venezuela's opposition filed suit in Manhattan federal court, arguing the bonds were invalid because the approval of the South American country's congress was needed to pledge Citgo as collateral. The National Assembly, controlled by the opposition when the bonds were issued in 2016, rejected the plan.

"This court should...reject the invitation to transform New York State...into a safe haven for unscrupulous authoritarian regimes to execute illegal transactions that violate their own constitutions," lawyers for PDVSA wrote in a filing with the Albany-based New York State Court of Appeals.

PDVSA's argument, filed on March 27, was not immediately made available on the court's website.

The bondholders are due to reply by May 12. They have argued that the contention the bonds were illegal under Venezuelan law has no bearing in New York, where the bonds were issued.

U.S. District Judge Katherine Polk Failla initially sided with the bondholders. But the Manhattan-based 2nd U.S. Circuit Court of Appeals later said a section of New York state's commercial code could be interpreted as implying that validity of a security, such as a bond, is determined by the local law of the jurisdiction where it is issued.

That court asked the New York State Court of Appeals to consider the question. (Reporting by Luc Cohen in New York; Editing by David Gregorio)

<https://ca.movies.yahoo.com/finance/news/pdvsas-citgo-backed-bonds-invalid-214022023.html>

**Forbes**

# Venezuela Faces The Loss Of Citgo

**Daniel Markind** Contributor

*I am an attorney who writes about energy issues and our world.*

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Apr 18, 2024, 09:24am EDT



LEMONT, ILLINOIS - FEBRUARY 01: Smoke rises from a refinery owned by Citgo, a subsidiary of PDVSA, ...

[+] GETTY IMAGES

Ever since strongman Hugo Chavez assumed power in Venezuela in 1999 and began moving the country toward an authoritarian, socialist model, the collapse of the economy has been offset by income generated from the presence of huge oil reserves in the country, and the billions of dollars contributed by the refiner Citgo, a subsidiary of the Venezuelan state oil holding company, PDV Holding, and indeed the only appreciable asset of that entity. In fact, Venezuela happens to control the largest proven oil reserves in the world, and Houston based Citgo, one of

the ten largest American oil refiners, owns three US refineries and many oil storage terminals and pipelines, in addition to controlling a substantial retail distribution network in this country. Now, however, Citgo's financial condition has grown so weak that Venezuela may lose control over that company, with impacts nationally, if not internationally, that can only be imagined at this time.

Citgo's problems unquestionably go back to severe financial mismanagement under the leftist economics of, first Chavez, and then his successor, Nicolas Maduro. After decades of such mismanagement, including the near constant invasion of Citgo's revenue and overall assets to help fund Chavez and Maduro's socialist agendas, Venezuela's reserves of hard currency had finally dropped from \$30 billion just six years ago to only \$10.7 billion last year. Riding the same downward slope, PDV Holding became so strapped for cash itself that it sought and received \$1.5 billion in loans from Rosneft, an oil company whose majority stake is owned by the Russian government. When PDV ran through even that money and had no ability to repay its loans, Rosneft claimed that it had the right to take control of a 49.9% stake in Citgo.

This, of course, was untenable for the Biden Administration, which held the power to block Russian control of PDV Holding, a Delaware corporation, under either national security grounds or sanctions first put in place by the Obama Administration.

Stymied by these controls, and evidently based on both PDV Holding and Citgo's status as Delaware corporations, on November 30, 2023, Rosneft filed a lien with the Delaware Department of State, claiming that Rosneft would claim the 49.9% stake in Citgo due to Venezuelan defaults. That lien, in turn, set in motion the Delaware courts, which eventually provided an extraordinary ruling in a case called Crystallex International Corporation v. Bolivarian Republic of Venezuela that Citgo's parent, PDV Holding, is itself liable for the debts of the nation of Venezuela. Specifically, the Court ruled that PDV had become enmeshed in litigation following a series of insufficiently compensated nationalizations by the Venezuelan government. With Venezuela itself ending up facing judgments of over \$21 billion, a federal court in Delaware then authorized the auction of Citgo to satisfy the defaults of the South American country.

This latest ruling was truly extraordinary. While no firm information has arisen, there is suspicion in international energy circles that the United States State Department, if not other US government departments and agencies, may have been involved, as the US would most certainly not want to see Russia gain control of a major American oil refinery and its associated pipelines and other physical assets.

In January 2024, in a bankruptcy auction, a Delaware Bankruptcy Court Judge accepted \$20.8 billion in claims against Citgo from 17 creditors to settle claims relating to the prior nationalization of assets without proper compensation and debt defaults.

One of the surprise bidders in the bankruptcy auction was ConocoPhillips. Conoco is taking the position that it can bid with its own claims and not with cash. Should it win, the claims outstanding to Conoco would then be offset against the claims of all other participants. In

February, the Bankruptcy Court narrowed the list of potential buyers in the bankruptcy auction from 30 to 12.

However, any way one looks at it, the result appears to be that Venezuela, the nation with the largest proven reserves of oil in the world, is about to lose control over its longstanding Houston-based refiner, Citgo. Aside from the obvious hit to Venezuelan national pride, this will no doubt be a massive financial blow to the troubled South American nation as well. For 2023, Citgo reported net income of \$2 billion. This money will be difficult to replace for Venezuela.

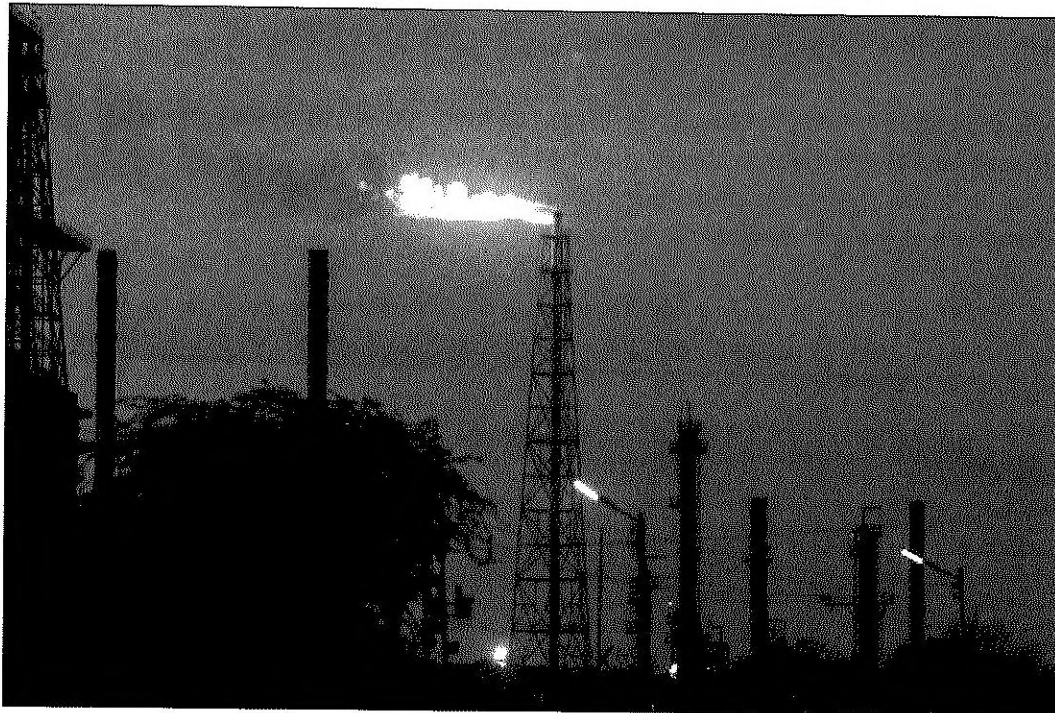
The bottom line is the cycle just keeps spiraling downward for Venezuela, and the history of that nation's troubles – mostly self-inflicted – teaches a lesson that other countries with similar ideological inclinations would do well to avoid repeating. No matter how many natural resources or other assets a nation may possess, even entire countries must pay attention to the fiscal bottom line, and human incompetence can even overwhelm vast natural bounty, leaving only financial pain and ruin in its wake.

<https://www.forbes.com/sites/danielmarkind/2024/04/18/venezuela-faces-the-loss-of-citgo/?sh=34bf997133dd>

**Bloomberg**

# Why Venezuela Is About to Lose Its Oil Crown Jewel

- Parent of energy refiner will be sold to satisfy creditors
- Sale process launches Monday; auction is set for June 6



PDVSA Refinery Complex in Punto Fijo, Falcon State, Venezuela. *Photographer: Betty Laura Zapata/Bloomberg*

By [Fabiola Zerpa](#), [Nicolle Yapur](#), and [Jef Feeley](#)

October 23, 2023 at 11:01 AM EDT

Updated on October 23, 2023 at 6:38 PM EDT

- Parent of energy refiner will be sold to satisfy creditors
- Sale process launches Monday; auction is set for June 6

Venezuela is entering the final stage of a long legal battle in which its most valuable foreign asset, [Citgo Petroleum Corp.](#), will be auctioned off to settle claims against the government and its oil company.

The sale starts on Monday with the expected distribution of marketing materials to potential buyers, setting off a bidding process expected to last several months.

Citgo had been shielded by US sanctions against Venezuela that prevented creditors from seizing the refiner. But a US judge ordered the process for the sale of its parent company, [PDV Holding Inc.](#), to begin this month after Washington signaled it wouldn't stand in the way.

More than 20 plaintiffs are now seeking to collect on the auction, scheduled for June 6, while navigating legal roadblocks Venezuela has thrown up. They include bondholders, commercial lenders and companies whose Venezuela assets were taken over by former President Hugo Chavez, who died in 2013.

## 1. Who controls Citgo and why does Venezuela have to sell it?

The Venezuelan opposition currently controls the refiner. Citgo has been trapped in a battle between two political factions since 2019, following the US government's recognition of Juan Guaido as the country's legitimate president. Guaido's appointees were then authorized by the US to act as representatives of the company in US courts.

By then Venezuela's creditors — a varied group that holds a mix of arbitration awards, unpaid loans and defaulted bonds — had begun to seek compensation in the courts, and Citgo had emerged as the most valuable asset in the mix.

The sanctions bar any transfer or sale of assets belonging to Venezuela's state-owned energy company [Petroleos de Venezuela SA](#), or PDVSA, which owns PDV Holding, Citgo's parent. But the US said in [May](#) that it wouldn't block the court-ordered sale of PDV Holding or take action against companies participating in the process. That bolstered creditor optimism.

Read More: [Demand for \\$40 Billion Bond From Venezuela Snags Citgo Auction](#)

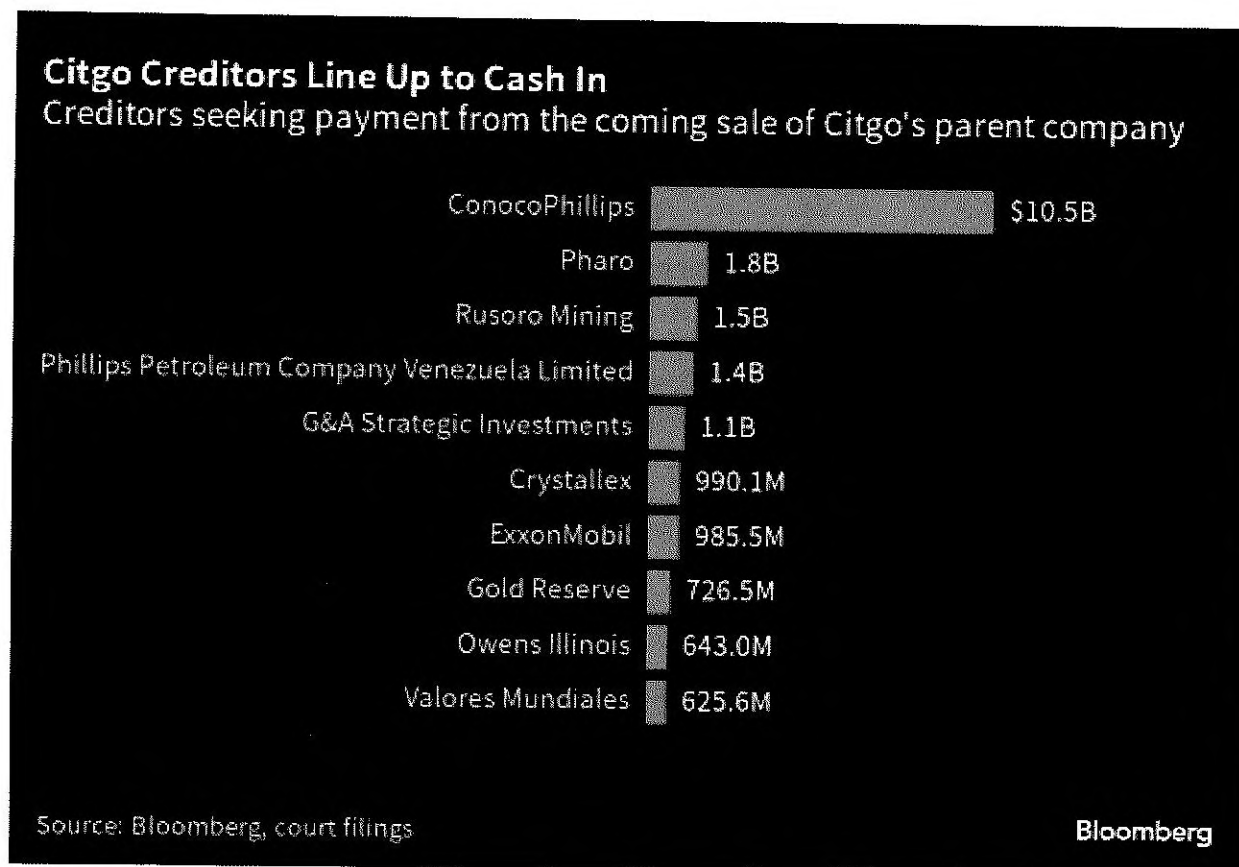
The Venezuelan opposition, which includes Guaido but is splintered, has tried to settle the most pressing claims, including by Canadian mining company [Crystalex International Corp.](#), but negotiations have been overtaken by the now imminent sale of the company.

The economic backdrop of the fight over Citgo includes Venezuela's seven-year recession and one of the longest bouts of hyperinflation in world history, which were sparked by a steep drop in oil prices and the tough US sanctions. The country's oil exports, responsible for more than 90% of its income, collapsed amid industry mismanagement, corruption and restrictions on international trade.

Even as Venezuela's oil industry crashed, Citgo thrived under better refining margins and as market conditions improved.

## 2. How do creditors line up for the sale?

Creditors seeking payment from the sale of the shares of Citgo's parent need to take a number of steps required by US Circuit Judge Leonard Stark, who is in charge of the process leading to the sale. He has favored a first-come, first-served basis for companies to participate in the auction, and all requirements must be fulfilled by May. More than 20 plaintiffs have filed for compensation, bringing the total claims to about \$20 billion.



Only Crystallex, which won a \$1.2 billion award against Venezuela, has completed all the requirements, from proving that Venezuela owes it money to obtaining a writ of attachment from the court against the shares of PDV Holding. The rest of the creditors have yet to complete all the steps. Some of them have had their proceedings slowed by Venezuela's appeal.

## 3. How much is Citgo worth?

The value of Citgo, the parent company's sole asset, has increased in the past few years as crude prices soared during the pandemic and now amid high energy prices driven partly by the war in Ukraine. Experts have valued the firm from \$8.1 billion to \$23.5 billion. EMFI Securities estimates that Citgo is worth between \$13.3 billion and \$14 billion. Citgo has said it could tap its \$3 billion cash pile to settle claims.

Under these valuations, the share sale would be enough to satisfy at least the most immediate creditors, including Crystallex. But Venezuela has about \$160 billion in outstanding debt, including defaulted bonds, loans and arbitration awards.

#### 4. Who might buy Citgo?

The purchase of Citgo could be an attractive proposition for various potential buyers.

The refiner owns three refineries and has 38 fully or jointly owned terminals, as well as a network of about 4,200 gas stations. Its assets were highly profitable last year, with each site earning between \$1.6 billion and \$3 billion, and are “highly competitive” in North America, with two ranking in the second 25% in 2022, said Alan Gelder, an analyst for refining markets at the consultancy Wood Mackenzie.

It could interest buyers seeking to expand their businesses or as a financial investment, according to [Jorge Piedrahita](#), the chief executive officer of Gear Capital Partners in New York.

Companies such as [Marathon Petroleum Corp.](#) and [Valero Energy Corp.](#) would be in the first group, Piedrahita said, while private equity funds may be interested because of Citgo’s competitiveness and ability to generate cash. Independent refiners might be interested, too.

Given the sanctions, any share transfer will require a [license](#) from the US Treasury. The buyer would have to pass government scrutiny as well.

#### 5. What’s the timeline for Citgo’s sale?

<b>Key Dates in Citgo's Sale Process</b>	
Bidding process was modified by Special Master on Oct. 23	
Date	Event
Oct 23, 2023	Sale launch date
Jan 12, 2024	Deadline for creditors to obtain a writ of attachment (step 5)
Jan 22, 2024	Round 1 for bids
TBD	Deadline for creditors to obtain a perfected writ of attachment, with shares attached (step 7)
TBD	Round 2 for bids
July 15, 2024	Tentative sale hearing
Source: Bloomberg, court filings	

An initial schedule set in July by Special Master [Robert Pincus](#) was modified on Monday, the launch date, nearly a week after US sanctions on Venezuela were eased. Pincus changed the selling procedure from a so-called stalking horse bidder to a traditional two-round bidding process,

customary for merger-and-acquisition sales “in an effort to increase competition among potential bidders.” Creditors must complete some steps to be eligible to bid by Jan. 12, and first round of bids is set for Jan. 22. The second one is to be determined. The final hearing to approve the sale is set for July 15. The new key dates reflect a less restrictive calendar compared to the one approved in July of this year.

Remaining litigation could slow the process.

Last week, the Biden administration issued a set of licenses to suspend some sanctions against Venezuela’s oil and gas sector, bonds and gold. US Treasury also extended a protection on Citgo which prevents holders of the PDVSA 2020 bonds from seizing the shares of the refiner’s parent until after January 2024. However, as the US still doesn’t recognize Maduro as Venezuela’s legitimate ruler, the company remains under the opposition’s control.

### The Reference Shelf

- US Justice Department officials say government wouldn’t take sanctions enforcement actions against entities participating in the sale of Citgo’s parent company
- PDVSA notes due in 2020, backed by a 50.1% stake in Citgo Holding, jump as a date for the auction of Citgo’s parent is set
- New York hedge fund Tenor Capital Management is set for a big win after investing in Crystallex
- Federal judge sets date to launch the sale process
- The US suspends sanctions on Venezuelan oil, gas and gold production and lifted some restrictions on bond trading

<https://www.bloomberg.com/news/articles/2023-10-23/why-venezuela-is-about-to-lose-its-oil-crown-jewel>

**Forbes**

# New York Courts Open Pandora's Box With PDVSA 2020 Rulings: Markets Stage Sharp Recovery

**Elias Ferrer** Former Contributor

*I write on the key issues for global energy, with a focus on LATAM.*



Mar 4, 2024, 04:35pm EST

On February 20th 2024, the New York Court of Appeals issued a decision, ruling that the issuance of PDVSA 2020 Bonds are—in fact—subject to local Venezuelan law under New York's Uniform Commercial Code.

The surprise decision by New York's highest court leaves matters unresolved after five years of costly litigation between the PDVSA Ad-Hoc Board and Noteholders, while introducing a new uncertainty into Judge Leonard Stark's Delaware auction of CITGO through PDV Holding and casting doubt on New York's "role as a pre-eminent financial center".

Following the ruling, the PDVSA 2020 Bonds initially traded down to a low of 67 from 89. Over the last week, on the back of expectations of \$530M additional interest recovery and re-inclusion into the JP Morgan EM Bond Index, the 2020 Bonds staged a sharp recovery back to 84.

CITGO is simultaneously facing a court-ordered sales process as it faces over \$21 billion in claims against the Venezuelan state for expropriations, breaches of contract, and sovereign bonds. The U.S.-based refiner is only worth about half of the total amount claimed. Creditors are to be paid through an auction of PDVH, the parent of CITGO, following a ruling which said that PDVSA acted as an 'alter ego' of the Venezuelan government.

The 2020 Bonds were issued by PDVSA, the state-owned oil giant, in an Exchange Offer by the Maduro government in September 2016. Unlike PDVSA's \$25 billion of unsecured debt, Noteholders received a collateral pledge under New York law for 50.1% of Citgo Holding Inc., the wholly-owned subsidiary of PDV Holding—in turn PDVSA's subsidiary in the U.S. Months later in Dec 2016, Rosneft received a similar collateral pledge for 49.9% in return for its loan to PDVSA.

From the outset, the 2020 Bonds were the subject of controversy with the opposition-controlled National Assembly elected in 2015—referred to as AN 2015. They contested the validity of the

pledge agreement at issuance. Citing the Constitution, they argued that the National Assembly must approve contracts of national interest.

In 2019 the Trump administration carried out a “maximum pressure” campaign to cause regime change in Venezuela, which included recognizing the AN 2015 as the legitimate authority in the country and setting up an “Interim Government” under Juan Guaido.

The interim government in exile was given control of PDV Holding and its subsidiaries. At first, the Interim Government paid a \$71.5 million coupon in May 2019, but then defaulted six months later and launched a litigation process against Noteholders to invalidate the pledge.

Though the interim government has been defunct since December 2022, the AN 2015 still controls PDV Holding through the “PDVSA Ad Hoc Board” and a committee for the protection of assets known as CAPA.

Carlos Jorda has been the CEO of Citgo Petroleum Corporation since 2019, after a new board was named by the Interim Government. In a letter, he said that “the new leadership, independent of the Maduro regime, has made important changes in improving the Company’s operations and financials, as well as our corporate governance. CITGO has also strictly complied with the U.S. sanctions regime, including, but not limited to, the prohibition on making any dividends, or other profit distributions, available to PDVSA.”

In the same letter, Jorda also added that “Holding CITGO and its parent companies liable for PDVSA’s debts poses a dangerous legal precedent. The law recognizes and respects distinct corporate forms. Holding one company responsible for the actions of its parent, on the grounds that the companies are “alter egos” of each other, is a thorny area. Overextending this legal doctrine could present dangerous consequences not just for CITGO, but for any U.S. company owned by a foreign parent.”

Finally, Jorda remarked that “No court has found that any of CITGO, CITGO Holding, or PDVH is an alter ego of PDVSA or Venezuela. No court has found that any of these companies are themselves liable for Venezuela’s and PDVSA’s debts. Rather, the courts have only found that creditors are entitled to be repaid by accessing PDVSA’s assets in the United States, chiefly among them the stock of PDVH.”

## A pyrrhic victory?

While the New York Court of Appeals’ decision was initially celebrated by the PDVSA Ad Hoc Board, the case of the 2020 bonds may prove to be a pyrrhic victory and costly for all involved.

With the judgement likely to be vacated in the coming month and with the case being remanded back to Judge Katherine Polk-Failla in New York Southern District, there is a new uncertainty of over \$530 million in additional, accrued interest since the 2020 summary judgement, which would be borne by PDVH bidders in Stark’s CITGO auction.

Jose Ignacio Hernandez, the architect of the PDVSA Ad-Hoc Board and 2015 National Assembly's litigation strategy remains confident, "I believe it will be fairly easy to prove that, under the Venezuelan constitution, this was a contract of national interest and it was rejected by the legislative power at the time. The National Assembly rejected it twice in 2016 and then in 2019."

Ricardo Penfold, an economist and chief strategist at Seaport Global, argues that the New York decision is unlikely to change the final outcome, "Venezuelan law is clear that there is no need to require approval from the National Assembly for this bond."

"The appeals court only considered the Constitution," says Penfold, "but not the Organic Law of Public Administration of the Public Sector. Upon reviewing this Law, the federal court should conclude that PDVSA did not require National Assembly approval to issue the 2020 Bond."

Francisco Rodriguez, an economist at the University of Denver, argues that the issuance clearly complied with Venezuelan law in force at the time.

"The Venezuelan Law explicitly says that you do not need approval from the National Assembly to issue debt from the central bank, PDVSA, and other state-owned enterprises," says Rodriguez. "PDVSA has never in its history requested legislative authorization to issue debt or pledge assets."

At issue is the Constitution's requirement, argues Rodriguez, that "national public interest contracts with foreign entities be subject to legislative approval. In the past, Venezuelan courts and legislators have interpreted that term to exclude debt issuance or asset pledges."

"The questions raised about the pledge agreement are not so much about legality but the constitutionality of the laws authorizing its issuance," states Rodriguez. "Those questions can only be settled by the country's Constitutional Chamber."

"Even the National Assembly, in 2016, did not say that the pledge was illegal or unconstitutional," continues Rodriguez. "They did so for other government projects, such as mining concessions. But in this case, they did not want to be blamed for forcing a default."

In 2019, the Interim Government also issued a bond with a guarantee on Citgo Holding, the parent company of Citgo Petroleum, due in 2024. "They did not request legislative approval then," says Rodriguez.

Rodriguez argues that the New York Court of Appeals' decision could prolong the process, but will not necessarily change the final outcome. "The court-ordered sale of Citgo is still going ahead, as the company faces other types of claims. The most likely outcome is that the winning bidder, after taking over Citgo, arrives at some form of settlement with 2020 bondholders."

## The implications of the court decision

With the prospect of protracted litigation, this case poses a number of conflicting issues for New York Courts and puts at risk New York, as a preferred choice of law jurisdiction, introducing renewed uncertainty for future sovereign debt issuance in the state.

It also comes at a crossroads for the U.S. government's broader policy towards Venezuela. A crucial moment in time before elections in the South American country, the CITGO auction, and a rapprochement strategy through the Barbados Agreement.

With New York Courts now adjudicating Venezuelan constitutional law, it risks re-opening the separation of powers between the Executive and the Judiciary. Issues that were confronted by both Judges Stark and Polk-Failla in Delaware and New York, most notably with the U.S. Government refusing to opine in the New York Southern District.

Informed observers of this case also question whether the AN 2015 still has authority and legal standing to continue litigation against Noteholders under the Venezuelan constitution—as its legal term expired in 2021.

Continued litigation could open a Pandora's Box, with deeper questions for U.S. recognition of the AN 2015 and by extension the authority of the PDVSA Ad Hoc Board. Recognition is granted via General License 42, which will only last until May 2024.

What will be the next steps? In a June 2023 letter to Secretary of State Anthony Blinken, CAPA said it intended to “continue negotiations to satisfy via consensual settlements the claims of Crystallex, the PDVSA 2020 bondholders, and PDVSA creditors with existing writs of attachment; while preserving Venezuelan ownership of the PDVH and Citgo assets so that they may be used to generate additional funds to pay off the remaining Republic's creditors.”

Hernandez argues that creditors can negotiate with neither party alone. “Maduro has no credibility nor legitimacy, at least in the U.S., while the AN 2015 does not have the credibility nor the financial capacity. The only way forward is to agree on a common framework, so that whoever wins in the upcoming presidential election should be able to close a deal with creditors.”

“The debt needs to be on the negotiating table between the government and opposition,” continues Hernandez. “Meanwhile, they also need to work together against the most imminent risks, such as the court-ordered sale of Citgo. This was stipulated in the Barbados Agreement. We just have to see that it is upheld.”

A financial and legal analyst said, “It is entirely irrational that there is no party in the Albany process that has the mandate to work towards a solution that is holistically constructive for Venezuela. There is nothing in the U.S. strategy that appears to benefit the Venezuelan people.”

The path of least resistance would be for a credible representative of Venezuela and Noteholders to reach a settlement. GL 42 should be reconsidered or clarified through FAQs; U.S. energy

firms have been able to deal with PDVSA, the Maduro government and their lawyers, to recoup their debt or purchase oil and gas.

There will be more awkward questions with every passing day under the current US Venezuela policy, reinforcing Judge Stark's characterization of the Venezuela opposition parties and PDVSA Ad-Hoc Board as "highly-recalcitrant judgment debtors".

It is unclear whether there will be a compromise and settlement, but time is running out and by the end of March, Stark will have completed the perfection of writs of attachment, moving \$20.6 billion in creditors to Step 7 and making the PDVH auction process close to irreversible.

<https://www.forbes.com/sites/eliasferrerbreda/2024/03/04/new-york-courts-open-pandoras-box-with-pdvsa-2020-rulings-markets-stage-sharp-recovery/?sh=3370825a19a8>



## Extension of Citgo protection would benefit creditors - Venezuela candidate Machado

CARACAS, Feb 9 (Reuters) - Venezuelan opposition presidential candidate Maria Corina Machado on Friday said she hoped the U.S. Treasury Department would extend its protection of Houston-based refiner Citgo Petroleum (PDVSAC.UL), saying that would benefit creditors and the U.S. government.

Machado, who spoke to Reuters in an interview, notched a resounding primary win in October. The supreme court last month upheld a decision by the controller general which bans her from holding public office and therefore from registering for elections scheduled for the second half of 2024.

A U.S. court has so far approved claims by 18 Venezuela-linked creditors, including ConocoPhillips, Rusoro Mining and Koch Industries, to get proceeds from a coming auction of shares in the parent of Citgo. Protection of the company is set to expire April 16.

The \$21.3 billion in claims stem from Venezuela's expropriations and debt defaults since it nationalized energy and mining companies more than a decade ago.

Citgo became enmeshed in the case when the U.S. court found its parent PDV Holding - itself a subsidiary of Venezuela's state-owned energy giant PDVSA - liable for the South American nation's debts in an extraordinary ruling.

Asked if she hoped the U.S. would extend the protection, Machado said yes.

"That is what we hope and I think it would be what benefits all parties, not just Venezuela, it would benefit creditors and benefit also the government of the United States," she said.

Washington and Venezuela's political opposition have long wanted Citgo to anchor the country's economic future under a democratically elected government. But so far President Nicolas Maduro has remained in power despite a disputed 2018 re-election the U.S. and others say was fraudulent.

The value of the company could grow significantly if there is "a democratic transition," Machado said, and there could be a reasonable and transparent debt restructuring.

The Citgo auction, where ConocoPhillips has emerged as a surprise bidder, could become the biggest event of its kind ever held.

Machado, a 56-year-old industrial engineer, has repeatedly rejected the possibility of a substitute, saying her landslide victory in the primary gives her a mandate and that her ban from running this year is contrived.

An election where she does not participate will not be recognized internationally, Machado said.

"Today the whole world knows that what is being done is unconstitutional," she added, though she would not be drawn on any steps she plans to take to fight the ban.

The United States has said Maduro, who is expected to run for re-election, should not be allowed to choose his opponent.

The supreme court's ruling said Machado supported U.S. sanctions and a U.S.-backed opposition interim government, which the Maduro government blames for the loss of Venezuelan foreign assets like Citgo.

The ruling prompted the U.S. to begin reinstating sanctions on Venezuela, with the Biden administration expected to allow a roll-back of restrictions on the oil industry to expire in April.

<https://www.reuters.com/world/americas/extension-citgo-protection-would-benefit-creditors-venezuela-candidate-machado-2024-02-09/>



## Venezuelan debts mount against Citgo as auction nears, clouding the Houston refiner's future

By [Amanda Drane](#), Staff writer

Updated Nov 22, 2023 5:16 p.m.

Marketing efforts behind the scheduled July sale of Citgo Petroleum's parent company, ordered by a U.S. District Court judge in Delaware to reimburse companies whose energy and mining assets were nationalized by Venezuela in 2007, kicked off last month. But the refining business is at a crossroads, and analysts said that dynamic may force a structural change in the offering.

A court-appointed special master plans to auction off shares in Citgo's Houston-based parent company, PDV Holdings, which is wholly owned by Venezuela's state-owned oil company PDVSA. The court aims to use the proceeds pay back billions of dollars in expropriation judgments against the Venezuelan government that have been mounting since it seized the foreign assets.

Houston's ConocoPhillips alone is seeking to recover more than \$11.8 billion through the process, court documents show, raising questions about how much of the more than \$20 billion sought by Venezuela's creditors can reasonably be squeezed from Citgo at a time when the future of refining — already a tight-margin business — remains uncertain. Refiners are preparing for a projected decline in gasoline demand within the decade as the transition to electric vehicles accelerates. Smaller refineries and those in need of extensive repair have been shuttering in recent years as owners decide their prospects aren't enough to justify large investments.

"On a very high level folks have questions about what's the true terminal value of assets like this. That's typically why refineries trade at relatively low multiples," said Matthew Blair, managing director of refining, chemicals and renewable fuels at investment bank Tudor Pickering Holt. "It's not like these assets are going to be worthless in 10 years, but that's certainly a theme in the overall marketplace."

Preliminary bids are due in January, yet the refiners that would be expected to serve as industry consolidators don't appear very interested, according to third-quarter earnings calls. Marathon Petroleum executives said they weren't interested in the Citgo auction. Valero CEO R. Lane Riggs said "never say never," and that his company would assess whether it made sense or not. PBF Energy CEO Matthew Lucey said adding Citgo's refineries to its portfolio would have to offer return to investors that was "much more attractive" than share buybacks.

Citgo's refinery in Lake Charles, La., is the seventh-largest refinery in the country. It also owns refineries in Corpus Christi and in Lemont, a suburb of Chicago.

Refiners have become more disciplined with their spending and focused on returning cash to shareholders in the years since the pandemic first roiled oil markets and accelerated the transition away from fossil fuels, Blair said. Changing that disciplined tune and suddenly buying assets while slowing buybacks "would really hurt a lot of goodwill that they've built up with investors."

Also hindering interest in the auction is the rumored Citgo valuation, Blair said. He said the rumored valuation between \$30 billion and \$40 billion was "quite rich." Publicly traded PBF is similar in size and refining capacity, he said, and its current market value is around \$5.5 billion. Rumors of the valuation have caused some companies to balk.

"I anecdotally have read articles where the valuations, if they're true, they're exorbitantly more than what PBF is being valued today," Lucey said earlier this month during an earnings call, according to a transcript provided by S&P Capital IQ.

Analysts said Citgo's refineries would likely need to be auctioned separately in order to attract serious buyers. That's the most likely course of action, said Andy Lipow, president of Lipow Oil Associates in Houston. Blair said breaking up the assets would "bring more bidders to the table and probably result in a higher overall valuation."

But Citgo remains adamant that the company would remain intact and that the auction would not result in a breakup. "To say otherwise is inaccurate and damaging for our stakeholders, including suppliers, clients and employees," it said in an email.

Robert Pincus, the court's special master overseeing the auction, said in a Oct. 23 filing that he planned to pursue "a traditional two-round bidding process" scheduled to conclude with a sale in July. He also reserved the right to change his strategy "in response to changing circumstances" and "feedback" from interested parties.

The auction is an offshoot of a 2017 suit filed by Canadian mining company Crystallex to collect the remainder of a \$1.4 billion award it won through a World Bank arbitration court. Crystallex, Conoco and other creditors targeted Citgo, which employs about 3,300 workers in the U.S., because it is the largest U.S. asset of the Venezuelan government and operates three top-tier refineries, including two along the Gulf Coast.

Houston-based Conoco is the largest creditor in the process, according to recent court filings, which show the Houston oil giant is looking to recover \$11.8 billion in arbitration awards, including interest and legal fees, related to the expropriation of its oil production assets in Venezuela.

"ConocoPhillips is committed to pursuing all available legal avenues to protect our rights and obtain a full and fair recovery of the awards in recognition of our fiduciary responsibility to our shareholders," the company said Tuesday in a statement.

A federal judge ruled in 2019 that the country's tight rein over PDVSA rendered it an "alter ego" of the government, meaning assets of one could be used to pay the debts of the other. The rare

ruling made PDVSA responsible by proxy for Venezuela's seizure of foreign energy and mining assets in 2007.

The order led a mob of companies hungry to recoup their Venezuelan losses to Citgo's gates, said Mark Jones, a fellow at Rice University's Baker Institute specializing in Latin American studies. Citgo's refinery in Lake Charles, La., is the seventh-largest refinery in the country. It also owns major refineries in Corpus Christi and in Lemont, a suburb of Chicago.

"Now they have this juicy orange they can squeeze," Jones said.

<https://www.houstonchronicle.com/business/energy/article/citgo-conocophillips-auction-venezuela-refineries-18499158.php>