

Court dismisses Huntington's attempt to establish (in)direct Venezuelan ownership of oil at Bopec (Joint Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba)

by *Practical Law Arbitration*, with *OSK Advocaten*

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In *Huntington v Bopec* (ECLI:NL:OGHACMB:2025:309), the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba dismissed a claim, made in a third-party attachment declaration procedure, for a declaration that a third-party attachment statement was incorrect, because oil stored at a terminal on Bonaire was alleged to be the property of Venezuela.

Lieve van Heeswijk and Jeroen Jung, OSK Advocaten

The Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba (JCOJ) has dismissed a claim in a third-party attachment declaration procedure arising from attachments sought in support of enforcement of an arbitration award.

In 2018, an arbitral tribunal issued an award ordering the Venezuelan Ministry of Defence to pay Huntington Ingalls Incorporated (Huntington) significant damages. Huntington then served a third-party attachment on Bonaire Petroleum Corporation (Bopec), a fuel oil terminal on Bonaire. However, Bopec submitted third-party statements stating that no Venezuelan-owned oil was stored there.

Huntington applied to the JCOJ for a declaration that Bopec's statements were incorrect on the basis that oil stored at Bopec was either directly or indirectly owned by Venezuela.

The JCOJ rejected Huntington's application, holding, among other things, that:

- Huntington failed to prove that the oil at Bopec was not directly owned by Venezuela. It was customary for oil to be extracted by a non-state party, with ownership then transferred to another party. Under the relevant contractual arrangements, PDVSA (a Venezuelan state-owned entity (SOE)) undertook to sell and supply oil extracted either by PPSA (another SOE) or itself.
- Huntington failed to prove that the stored oil was indirectly owned by Venezuela on the basis that PDVSA or PPSA were alter egos of the Venezuelan state. Under Caribbean-Dutch law, alter-ego liability is an exceptional form of redress for a tort involving abuse of separate legal personality. However, an issue arose as to whether the conflict-of-laws rules to be applied were those for non-contractual obligations (which would have led to the application of Venezuelan law) or property law (which was the law of the place where the oil was stored, when it was attached, namely, Caribbean-Dutch law). Ultimately, the JCOJ did not determine the issue because Huntington had failed to satisfy it that the grounds for alter-ego liability were met under either legal system.

- It was not satisfied that PDVSA abused the difference in identity between Venezuela, on one hand, and PDVSA and PPSA on the other. Even if virtually all of Venezuela's income derived from oil sales and Venezuela had hardly any assets other than PDVSA, that basis was insufficient to conclude that PDVSA was abusing the (lawful) difference in identity between it and Venezuela. The fact that PDVSA is dependent on, and wholly controlled and managed by, Venezuela did not alter that.

Case: *Huntington v Bopec* (ECLI:NL:OGHACMB:2025:309) (*The Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba*) (16 December 2025) (in Dutch language).

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