
Kluwer Arbitration Blog

Smoke Signals from Uruguay

Luke Eric Peterson (Investment Arbitration Reporter) · Wednesday, October 13th, 2010

Several months ago, I [drew attention](#) on this blog to Uruguayan press reports which hinted that Uruguay might be prepared to compromise in the face of an arbitral claim filed by Phillip Morris International. (For background on the claim, see this *Investment Arbitration Reporter* account.)

Following the flurry of Uruguayan press coverage, I spent a bit of time digging into the case. While it was clear that the government had not made up its mind, I was assured that the government had been advised, by what I would describe as “serious actors”, that it had a strong case.

After more than six months of weighing its options, it now emerges that Uruguay has hired outside legal counsel. And in a [press release](#) that landed in my inbox this morning, the law firm Foley Hoag appears ready to take the offensive:

“Our view is that Philip Morris is hoping to use this case to deter not only Uruguay but other signatories to the WHO’s Framework Convention from taking effective measures to safeguard the public health against the known hazards of tobacco consumption”

“Sovereign states are normally given wide discretion in enacting legislation or promulgating regulations to protect and promote public health. Indeed, that is one of the fundamental aspects of sovereignty. This is not a case of economic regulation, but of government action strictly in the name of public health.”

It now remains to be seen whether Phillip Morris plans to press forward with its case.

Some of the most notorious of investment arbitrations have a way of fizzling out before arbitrators have to weigh in on the merits – think of claims arising out of Black Economic Empowerment in South Africa or a particularly infamous water privatization in Bolivia.

But, at least for now, the Phillip Morris v. Uruguay case is sure to get a renewed spurt of attention.

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The graphic features a black background with white text and a circular icon. The icon depicts a group of stylized human figures, with one figure in the center being magnified by a magnifying glass. The background is accented with horizontal lines in blue and green at the top, and a white arc at the bottom.

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