No. 19A960

IN THE SUPREME COURT OF THE UNITED STATES

CHAD WOLF, ACTING SECRETARY OF HOMELAND SECURITY, ET AL.,
APPLICANTS

v.

INNOVATION LAW LAB, ET AL.

REPLY IN SUPPORT OF APPLICATION FOR A STAY AND REQUEST FOR AN ADMINISTRATIVE STAY

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MPP is lawful because respondents satisfy all of the statutory criteria for temporary return to Mexico, the contiguous territory from which they arrived, pending their full removal proceedings. MPP also provides adequate safeguards to ensure that aliens who legitimately fear persecution on account of a protected ground or torture in Mexico are not returned to Mexico. Respondents' arguments to the contrary lack merit. And a stay pending further proceedings in this Court is urgently needed. Contrary to respondents' contention (Opp. 28) that the injunction would lead to an "orderly unwinding of MPP," the experience of February 28 when the Ninth Circuit enjoined MPP for mere hours shows that, if the injunction takes effect at all, substantial numbers of the up to 25,000 returned aliens who are awaiting proceedings in Mexico will rush immediately to enter the United States. A surge of that

magnitude would impose extraordinary burdens on the United States and damage our diplomatic relations with the government of Mexico.

I. THERE IS A FAIR PROSPECT THIS COURT WILL VACATE OR MODIFY THE INJUNCTION AFTER GRANTING CERTIORARI

Respondents do not contest that this Court is likely to grant a writ of certiorari to review the Ninth Circuit's decision. And there is at least a fair prospect that the Court will vacate or modify the district court's universal injunction of MPP.

A. MPP is authorized by statute

Congress gave the Department of Homeland Security (DHS) contiguous-territory-return authority in 8 U.S.C. 1225(b)(2)(C). The individual respondents do not contest the facts that are the prerequisites for the exercise of that authority. They do not dispute that they each arrived "on land" from Mexico, "a foreign territory contiguous to the United States." Ibid. They also do not dispute the facts that make them aliens "described in subparagraph (A)," who are thus covered by the express terms of Section 1225(b)(2)(C): they are "applicant[s] for admission" who were "determine[d]" by an immigration officer not to be "clearly and beyond a doubt entitled to be admitted" -- indeed, they have no entitlement to be admitted at all. 8 U.S.C. 1225(b)(2)(A); see 8 U.S.C. 1225(a)(1). In the stay ruling, Judges O'Scannlain and Watford thus correctly concluded that respondents "fall within the sweep of § 1225(b)(2)(C)." Appl. 80a.

Respondents' contrary argument (Opp. 15-20) depends entirely on 8 U.S.C. 1225(b)(2)(B)(ii). The individual respondents claim they are aliens "to whom [Section 1225(b)(1)] applies," ibid., and accordingly that "[Section 1225(b)(2)(A)] shall not apply to" them, ibid., and therefore that they are not "described in [Section 1225(b)(2)(A)]," 8 U.S.C. 1225(b)(2)(C). Respondents contend (Opp. 1-2) that Congress employed that convoluted route to "specifically exempt[ ]" "asylum seekers * * * from return to a contiguous territory."

Respondents' statutory analysis is flawed at every step. First, it makes little sense in this context for respondents to claim to be aliens "to whom [Section 1225(b)(1)] applies," given that Section 1225(b)(1)'s expedited-removal procedure was never applied to any of them, and given their concession (Opp. 5) that DHS has prosecutorial discretion not to apply the expedited-removal procedure to an alien who is eligible for it. It makes even less sense for respondents to claim (Opp. 16) that "[Section 1225(b)(2)(A)] shall not apply to" them. Respondents concede that they were each placed in "a [full] proceeding under section 1229a," and it is Section 1225(b)(2)(A) -- not Section 1225(b)(1) -- that authorizes a full removal proceeding for applicants for admission like respondents who are not "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. 1225(b)(2)(A).

Respondents fundamentally misunderstand (Opp. 15) the limited function of Section 1225(b)(2)(B)(ii), which does not "divide[ ] [aliens] seeking admission into two classes," but instead clarifies the relationship between two sets of removal procedures. Respondents attempt (Opp. 19) to invoke In re E-R-M- & L-R-M-, 25 I. & N. Dec. 520 (B.I.A. 2011), but that decision correctly read Section 1225(b)(2)(B)(ii) just as the stay panel interpreted it: when aliens are placed in expedited-removal procedures under Section 1225(b)(1), they "are not entitled to a [full removal] proceeding" under section 1229a. Id. at 523. In other words, Section 1225(b)(2)(B)(ii) simply clarifies the overlap that would otherwise exist between Section 1225(b)(1)(A)(i) and the "broader," "catchall" description in Section 1225(b)(2)(A). Jennings v. Rodriguez, 138 S. Ct. 830, 837 (2018).

This Court's decision in Jennings fully accords with that construction. The Court stated that Section 1225(b)(2) "applies to all applicants for admission not covered by § 1225(b)(1)." 138 S. Ct. at 837. That is correct because, when an alien is placed into expedited-removal proceedings under Section 1225(b)(1), the requirement under Section 1225(b)(2)(A) of a full removal proceeding no longer applies. The critical point for the purpose of contiguous-territory-return authority is that DHS concededly has discretion to choose whether to apply the expedited-removal procedure or a full removal proceeding to an alien who is eligible

for either. Jennings confirmed that discretion by explaining that "Section 1225(b)(1) applies to aliens initially determined [by an immigration officer] to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." Ibid. (emphasis added). In respondents' cases, immigration officers exercised discretion to determine that respondents should not be placed in the expedited-removal process, and instead to remove them through Section 1225(b)(2).

Respondents offer no plausible reason why Congress would have wanted to exempt from contiguous-territory return every alien who is merely eligible to be placed into expedited-removal proceedings, including aliens who attempt fraud on the U.S. immigration system. See Opp. 16; 8 U.S.C. 1225(b)(1)(A)(i). Respondents suggest (Opp. 1-2, 20) that Congress wanted to exempt asylum seekers, but the statute refutes that suggestion because whether an alien is eligible for expedited removal under Section 1225(b)(1) has no connection to whether the alien seeks asylum. Among those aliens who are eligible for expedited removal, not all will seek asylum, and some will have prior criminal convictions or connections to drug trafficking or human smuggling that could be charged as additional grounds of removal. Yet according to respondents, Congress intended to exempt all of those aliens from contiguous-territory return. Respondents also argue that Congress made all aliens who are not eligible for expedited removal subject

to contiguous-territory return, even though some of those will seek asylum, and many will not be spies, terrorists, or the like. The stay panel's construction of the statute is far more sensible: when aliens like the individual respondents are lawfully placed into full removal proceedings rather than the expedited-removal procedure, contiguous-territory return is available as an alternative to the detention that would otherwise be mandatory during their removal proceedings.

B. MPP adequately protects against refoulement

Respondents fail to show that MPP violates any applicable U.S. non-refoulement commitments. But even if some modification were required, that could not support the district court's universal injunction barring MPP altogether, a point Judge Watford recognized (Appl. 88a) and that respondents do not dispute.

1. Respondents assert (Opp. 21) that MPP violates 8 U.S.C. 1231(b)(3)(A). But by its plain terms, Section 1231 limits "remov[ing]" an alien to a country if DHS "decides that the alien's life or freedom would be threatened in that country" on a protected ground; the statute says nothing about temporary return to Mexico or Canada during proceedings to determine whether the alien will be removed. Ibid. Respondents assert (Opp. 23) that "'removal'" is an "all-purpose word" describing all "manners of expelling people." That cannot be squared with the statute's text, which distinguishes between removal and return, including in the very

provisions at issue here. Compare, e.g., 8 U.S.C. 1225(b)(1)(A)(i) (using "remove[ ]"), with 8 U.S.C. 1225(b)(2)(C) (using "return").

Respondents emphasize that the predecessor to Section 1231 stated that the Attorney General "shall not deport or return" any alien to a country where he or she would face a threat of persecution. Opp. 22-23 (quoting 8 U.S.C. 1253(h)(1) (Supp. IV 1980)). But Section 1253(h)(1)'s reference to "deport or return" was designed to encompass "deportation and exclusion proceedings," Sale v. Haitian Ctrs. Council, Inc., 509 U.S. 155, 174 (1993) -- both of which are now covered by the term "removal." Moreover, Congress replaced the phrase "deport or return" with "remove" in the same legislation that created contiguous-territory return. See Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, Div. C, 110 Stat. 3009-583, 3009-602, 3009-612 to 3009-614. Had Congress intended Section 1231's limitations on removal to apply to contiguous-return authority, it would have said so.

2. In any event, MPP fully complies with the United States' non-refoulement commitments. As respondents effectively concede, the Ninth Circuit failed to identify any precise defect in MPP's procedures. See Opp. 25 (suggesting this Court could remand to the district court to "set out what the non-refoulement procedures would look like precisely"). The court was unable to do so because federal law does not mandate any particular procedures to protect

against refoulement in contiguous-territory return. Section 1231(b)(3)(A), even where it applies, limits removal only "if the Attorney General decides that the alien's life or freedom would be threatened in" a particular country based on a protected ground, which suggests that Congress delegated to the Executive Branch the authority to fashion the precise procedures to avoid refoulement.

Respondents contend (Opp. 24) that DHS must import into contiguous-territory return the procedures that it uses to process asylum claims in expedited and full removal proceedings. Those provisions do not apply here, and respondents cite no authority requiring DHS to follow the same non-refoulement procedures in all settings. To the contrary, DHS had good reason to use a different approach for MPP, which does not permanently remove aliens to the country from which they fled. There is far less reason to believe that aliens will face persecution on the basis of a protected ground or torture in a third country through which they happened to travel. And MPP mitigates the possibility of refoulement by permitting aliens to raise a fear of return to Mexico at any time -- which they have every incentive to do -- triggering an interview by an asylum officer. See C.A. E.R. 139-140, 242, 247.

Respondents identify no persuasive reason to believe that MPP's procedures are inadequate in this distinct context. They argue (Opp. 2) that "[i]mmigration officers do not even notify asylum seekers that they face return to Mexico under MPP." But

MPP states that officials "will provide aliens subject to MPP * * * information about the process" and, "[b]efore returning an alien to Mexico," "instructions explaining when and to which [port of entry] to report to attend his or her hearing." C.A. E.R. 140, 246. Moreover, given the immediate and widespread reaction to the Ninth Circuit's ruling, it is implausible to suggest that migrants are ignorant of MPP's operation.

Respondents ultimately fall back (Opp. 25-26) on their untested assertions of harm to support their claims that MPP's procedures are inadequate. Respondents' claims of future harm are speculative, and they make no effort to demonstrate otherwise. Opp. 26. They also generally fail to show that past harms they may have suffered were inflicted because of their nationality or with government sanction or toleration. See, e.g., ibid. ("Howard Doe robbed at gun point by men who identified him as Honduran."). Routine criminal acts that do not amount to persecution or torture do not suffice to demonstrate refoulement. And apart from their own declarations, respondents' other sources are no more persuasive. See, e.g., Opp. 27 (citing State Department report preceding MPP discussing general human rights issues in Mexico).

II. IRREPARABLE HARM IS HIGHLY LIKELY TO RESULT FROM THE DENIAL OF A STAY

A. In the absence of a stay, the district court's injunction would likely cause chaos at the border, as tens of thousands of aliens subject to MPP may attempt to enter the United States,

overwhelming border officials and DHS's detention capacity. Respondents do not contest that the rush on the border that occurred on February 28 would likely occur again on a much larger scale, which alone suffices to show irreparable harm.

Respondents' primary contention (Opp. 29) is that any harms the government suffers would likely be "short lived." Respondents are wrong about that: potentially tens of thousands more inadmissible aliens would need to be detained in the United States for weeks or months during removal proceedings. But in any event, respondents' argument misses the point. A rush on the border would threaten irreparable harm, including harm to persons and property. See, e.g., Appl. 136a (explaining that "overcrowding in [U.S. Customs and Border Protection (CBP)] facilities" would "lead[ ] to a corresponding risk of individuals getting sick in [CBP] custody and facing other harms to their health and safety," as well as a "serious safety risk to CBP's own employees"). Those harms would not undone when the government eventually restored order.

Respondents' efforts to downplay the harms the government would suffer from a rush on the border are unpersuasive. They cite (Opp. 27) the declaration of a former CBP official who claims that DHS previously managed a large influx of migrants "in a short time period." Opp. 686a. That vague claim does not outweigh the testimony of current government officials who are familiar with existing capacity and capabilities. See Appl. 136a (averring that

"CBP does not currently have facilities" for an influx of this magnitude); Appl. 134a-145a, 150a-161a. The former official also relies (Opp. 687a) on the implausible premise that the "injunction unwinds MPP prospectively and in a piecemeal fashion," contrary to experience and the text of the district court's order. See Opp. 131a, 139a-143a.

Respondents further argue (Opp. 29) that, even if the government lacked adequate detention capacity, it could simply "releas[e] individuals" to the interior. That is precisely what contiguous-territory return was designed to avoid, because hope of release into the United States motivates hundreds of thousands of migrants to attempt entry with no lawful basis. And although respondents contend (Opp. 29 & n.3) that the "vast majority" of asylum seekers appear for their hearings, the statistics they cite illustrate how severe the problem of failure to appear has become in recent years. See Exec. Office for Immigration Review, Adjudication Statistics: In Absentia Removal Orders in Cases Originating with a Credible Fear Claim (Oct. 23, 2019) (noting that in absentia removal orders in credible-fear cases jumped from 613 in 2008 to 10,724 in 2018), https://www.justice.gov/eoir/page/file/1116666/download. In 2018, "in nearly half of the cases completed by an immigration judge * * * involving aliens who passed through a credible-fear referral, the alien failed to appear

at a hearing or failed to file an asylum application." 83 Fed. Reg. 55,934, 55,946 (Nov. 9, 2018).

Apart from the immediate harms that a rush on the border would produce, the injunction would inflict permanent harm by depriving border officials of the ability to use MPP going forward. The injunction would risk restoring border officials to the pre-MPP landscape, when they faced an average of 2000 inadmissible aliens at the Southwest border every day. C.A. E.R. 160. The injunction would also disrupt diplomatic relations with Mexico. As the current U.S. Ambassador to Mexico attests (Appl. 132a), the injunction would threaten "a crisis on our country's southern border and in its critically important relationship with Mexico."

Respondents have no meaningful answer to those long-term harms. They contend (Opp. 31) that "the recent decline in migration is attributable to factors beyond MPP -- most significantly, the stepped up enforcement by Mexico at its Southern border," but they ignore the obvious fact that increased enforcement after MPP cannot be divorced from MPP. See Appl. 148a (noting that "MPP was a carefully negotiated solution with the Government of Mexico" that permits the two countries to "share more of an equal respective burden"); App., infra, 163a. Respondents offer (Opp. 31) a declaration from a former Mexican ambassador, but it deserves no weight because the Mexican government has expressly disavowed his views. App., infra, 167a. And respondents' assertion (Opp. 31)

that "there is no evidence" "the injunction would harm diplomatic relations" cannot credited in the face of a contrary declaration from the sitting U.S. Ambassador to Mexico. Appl. 132a-133a.

Finally, respondents renew their contention (Opp. 28) that the district court's injunction precludes enforcing MPP prospectively, but "does not require the immediate re-entry of individuals currently in Mexico pursuant to MPP." Even if true, that does nothing to mitigate the likelihood of a rush on the border. And respondents do not identify any basis on which border officials could reject reentry, in light of the district court's categorical ruling that the government is "enjoined and restrained from continuing to implement or expand the 'Migrant Protection Protocols.'" Appl. 131a; see Appl. 131a n.14.

B. Respondents' asserted injuries do not compel a contrary conclusion. See Opp. 26. Their fears of future harm are speculative, and isolated instances of past injury suffered as a result of ordinary criminality cannot outweigh the dramatic, systemic harms described above. See p. 9, supra. In addition, respondents make no effort to show that the organizational plaintiffs have any "legally protected interest" in the regulations at issue here. Gill v. Whitford, 138 S. Ct. 1916, 1929 (2018) (citation omitted).*

* Respondents contend (Opp. 33) that MPP is not the "status quo" because it was permitted to go into effect only as the result of a stay. But MPP -- which has been operational for over 13 months -- plainly is the status quo as a factual matter. And

III. THE INJUNCTION IS OVERBROAD

In defense of the district court's universal injunction, respondents invoke (Opp. 34-35) 5 U.S.C. 706(2)(A), which authorizes courts to "set aside agency action" found to be unlawful. That argument is flawed for several reasons. First, this case involves a preliminary injunction, not a final decision. Second, the APA does not say that agency action should be set aside for everyone, as opposed to the plaintiff before the court. Third, respondents ignore the meaning of the "set aside" phrase when Congress enacted it, which did not mark a departure from traditional principles of equity, and instead simply "reflected a consensus that judicial review of agency action should be modeled on appellate review of trial court judgments." Nicholas Bagley, Remedial Restraint in Administrative Law, 117 Colum. L. Rev. 253, 258 (2017). At the time of the APA, this Court routinely referred to "setting aside" defective court judgments or agency actions in the case of a particular litigant, not barring their application to non-parties. See Nicholas Bagley & Samuel L. Bray Amicus Br. at 12-13, Trump v. Pennsylvania, No. 19-454 (filed Mar. 9, 2020). Respondents' reading is also inconsistent with traditional

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although respondents argue that preliminary injunctions are "meant to preserve the relative positions of the parties" "prior to the unlawful conduct at issue," ibid. (citation and internal quotation marks omitted), the entire question here is whether a preliminary injunction is warranted. A stay pending resolution of that question is appropriate.

equitable limits elsewhere in the APA. See Appl. 40; Gov't Br. at 49-50, Trump v. Pennsylvania, No. 19-454 (filed Mar. 2, 2020).

Finally, respondents invoke (Opp. 36-37) a former government official's declaration that, without a stay, it is "speculative" whether migrants in Mexico outside States not within the Ninth Circuit will "move west" to Arizona or California. Opp. 687a-688a. Current government officials disagree based on their observation and experience. Appl. 158a-160a. And the government's officials have every reason for concern: Mere hours after the Ninth Circuit enjoined MPP on February 28, hundreds of migrants began gathering at the port of entry in El Paso, Texas, Opp. 140a-141a, which is less than 250 miles from the port of entry in Douglas, Arizona. It blinks reality to suggest that aliens in MPP -- some of whom traveled a thousand miles from Central America -- would not travel to the border within the Ninth Circuit if the injunction permitted them to gain entry into the United States.

CONCLUSION

This Court should stay the district court's preliminary injunction pending further proceedings in this Court. The Court should also issue an administrative stay while it considers this application so that the injunction does not "take effect," pursuant to the Ninth Circuit's order, "on Thursday, March 12." Appl. 12a.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General

MARCH 2020

IN THE SUPREME COURT OF THE UNITED STATES

Chad Wolf, Acting Secretary of Homeland Security, et al., Petitioners,	)	
v.	)	No. 19A960
Innovation Law Lab, et al.,	)	

DECLARATION OF AMBASSADOR CHRISTOPHER LANDAU

I, Christopher Landau, declare as follows:

1. I am the United States Ambassador to Mexico. I was nominated by the President on March 26, 2019, confirmed by the Senate on August 1, 2019, and sworn into office on August 12, 2019. I presented my credentials to President Andrés Manuel López Obrador on August 26, 2019.

2. I previously presented a declaration to the U.S. Court of Appeals for the Ninth Circuit in this case, explaining my belief that, without a stay, the preliminary injunction issued by the district court setting aside the Migrant Protection Protocols (MPP) is likely to have an immediate and severely prejudicial impact on the bilateral relationship between the United States and Mexico. I further explained my belief that those harms are likely to be irreparable, because enjoining MPP is likely to alter the incentive structure for migrants and human smugglers and thereby cause a spike in migration that would overcome the resources of the governments of both the United States and Mexico. I continue to believe that those significant harms are likely, immediate, and irreparable without a stay of the injunction from this Court.

3. I am aware that the plaintiffs in this case, in support of their opposition to a stay of the injunction pending further proceedings in this Court, have relied on a declaration of Arturo Sarukhan, a former ambassador of Mexico to the United States. I have reviewed the plaintiffs' opposition brief and the Sarukhan declaration.

4. I was surprised when the plaintiffs submitted Mr. Sarukhan's declaration to the Ninth Circuit in response to my declaration regarding the diplomatic ramifications of the decision below. Through a diplomatic note, which is the formal channel for communications between an embassy and the host government, the U.S. Embassy in Mexico City asked the Government of Mexico to provide official clarification of Mr. Sarukhan's status. *See* Dip. Note No. 20-1091 (Mar. 5, 2020) (Ex. A, in original English version).

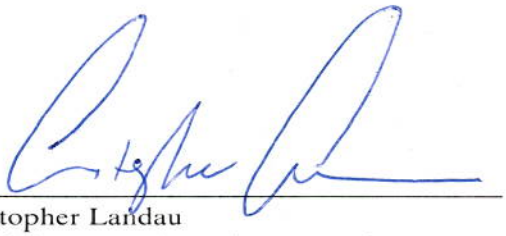
5. The Government of Mexico, speaking through the Secretariat of Foreign Relations, responded to the Embassy's diplomatic note with a diplomatic note of its own. See Dip.

Note No. SSAN/0193 (Mar. 5, 2020) (Ex. B, in original Spanish version). (A translation of that note into English, prepared by Embassy staff, is attached for the Court's convenience as Ex. C.) In that note, the Government of Mexico provides its official position that Mr. Sarukhan has not been "an active member of the Mexican Foreign Service since February 18, 2013, and therefore the opinions and statements he has made since that date do not represent the official position of the Government of Mexico."

6. In light of my declaration about the likely, immediate, and irreparable injury to bilateral relations absent a stay, the plaintiffs' assertion that "there is no evidence that the injunction would harm diplomatic relations," Opp. 31, is inexplicable. Because Mr. Sarukhan does not speak for the Government of Mexico, and has not been involved in negotiations between the two governments on immigration issues for more than eight years, he is in no position to speak authoritatively with respect to the impact of the decision below on the bilateral relationship.

7. Similarly, I reject plaintiffs' assertion – based in part on Mr. Sarukhan's declaration – that "the consensus among migration experts is that the recent decline in migration is attributable to factors beyond MPP." *Id.* I am not aware of any such "consensus," and do not share it. To the contrary, I believe that there is a broad consensus that MPP has played, and continues to play, a critical role in stemming uncontrolled flows of third-country migrants through Mexico to the United States, and that allowing the preliminary injunction in this case to take effect would unleash a humanitarian crisis on our southern border.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Ciudad Juárez on March 9, 2020.



Christopher Landau
United States Ambassador to Mexico

No. 20-1091

The Embassy of the United States of America presents its compliments to the Secretariat of Foreign Relations of the United Mexican States and makes reference to the sworn affidavit presented by Ambassador Arturo Sarukhán, dated March 2, 2020, at the United States Court of Appeals for the Ninth Circuit in the case of *Innovation Law Lab, et al V. Chad F. Wolf, et.*

In this regard, the Embassy requests the Secretariat to clarify the capacity under which ambassador Sarukhán subscribes the aforementioned document.

The Embassy of the United States of America avails itself of this opportunity to renew to the Secretariat of Foreign Relations the assurances of its highest consideration.

Embassy of the United States of America,

Mexico City, March 5, 2020.

TRADUCCION DE CORTESÍA

No. 20-1091

La Embajada de los Estados Unidos de América saluda atentamente a la Secretaría de Relaciones Exteriores de los Estados Unidos Mexicanos y tiene el honor de hacer referencia a la declaración jurada (affidávit) presentada por el embajador Arturo Sarukhán, con fecha de 2 de marzo de 2020, ante la Corte de Apelaciones del Noveno Circuito dentro del caso *Innovation Law Lab, et al V. Chad F. Wolf, et.*

Al respecto, esta embajada solicita a la Secretaría aclarar el carácter con el que el embajador Sarhukán suscribe el escrito en mención.

La Embajada de los Estados Unidos de América aprovecha esta oportunidad para renovar a la Secretaría de Relaciones Exteriores sus más altas consideraciones.

Embajada de los Estados Unidos de América,

Ciudad de México, a 5 de Marzo de 2020

SSAN/ 0193 La Secretaría de Relaciones Exteriores - Subsecretaría para América del Norte -saluda atentamente a la Embajada de Estados Unidos de América y hace referencia a la nota diplomática del 5 de marzo de 2020 referente a la declaración presentada por Arturo Sarhukán, con fecha 2 de marzo de 2020, ante la Corte de Apelaciones del Noveno Circuito en el caso *Innovation Law Lab, et al V. Chad F. Wolf, et al.*

Al respecto, la Secretaría de Relaciones Exteriores aclara que Arturo Sarhukán no es miembro activo del Servicio Exterior Mexicano desde el 18 de febrero de 2013, por lo que las opiniones y declaraciones que hubiese emitido en cualquier fecha posterior no representan la postura oficial del Gobierno de México.

La Secretaría de Relaciones Exteriores hace válida la ocasión para reiterar a la Embajada de Estados Unidos en México la seguridad de su más alta y distinguida consideración.

Ciudad de México, a 5 de marzo de 2020.

A la Embajada de
Estados Unidos de América en México

SSAN/0193 The Secretariat of Foreign Relations – Under Secretariat for North America – presents its compliments to the Embassy of the United States of America and makes reference to the diplomatic note sent on March 5, 2020, related to the sworn affidavit presented by Arturo Sarukhán, dated March 2, 2020, at the United States Court of Appeals for the Ninth Circuit in the case of *Innovation Law Lab, et al V. Chad F. Wolf. et al.*

In this regard, the Secretariat of Foreign Relations clarifies that Arturo Sarukhán is not an active member of the Mexican Foreign Service since February 18, 2013, and therefore the opinions and statements he has made since that date do not represent the official position of the Government of Mexico.

The Secretariat of Foreign Relations avails itself of this opportunity to renew to the Embassy of the United States of America in Mexico the assurances of its highest consideration.

[OFFICIAL SEAL]

Mexico City, March 5, 2020

To the Embassy of the United States of America in Mexico