



Chevron Seeks to Foist \$27 Billion Amazon Liability on Ecuador

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By Joe Carroll

Sept. 24 (Bloomberg) -- **Chevron Corp.**, the second-largest U.S. oil company, may force Ecuador's government to foot the bill for a \$27 billion environmental lawsuit marred by allegations of bribery and political interference.

Chevron asked the Permanent Court of Arbitration in The Hague to shift responsibility to Ecuador for paying any damages that a group of Amazon Basin residents could win in a 16-year-old toxic-waste lawsuit, according to a company statement yesterday. An investigator appointed by the Ecuadorean court overseeing the case estimated that damages could be \$27 billion, more than half of the Andean nation's gross domestic product.

Chevron, which hasn't drilled a well in Ecuador since 1992, wants arbitrators to require the government to comply with agreements signed from 1994 to 1998 absolving the company from any environmental liabilities. Chevron also asked to be compensated for damage to its reputation caused by Ecuador's "outrageous and illegal conduct," as well as legal fees.

"This is a smart move by Chevron," said **Barry Appleton**, managing partner at Appleton & Associates, which has represented companies and investors in international arbitration claims against Ecuador, Argentina, Canada and Romania. "If Chevron can get a favorable ruling, Ecuador won't want to pay but it will be forced to because judgments from this panel are enforceable around the world. You can't frustrate the process."

By seeking arbitration, San Ramon, California-based Chevron is playing one of its "last cards" available to avoid paying for environmental contamination, lawyers for the Amazon Basin plaintiffs said today in a statement. Plaintiffs won't be delayed by the arbitration in seeking a judgment in their case and will move quickly to seize Chevron assets to enforce any damage award, according to the statement.

Bias Was Alleged

Chevron last month said it uncovered a \$3 million bribery scheme linked to the ongoing lawsuit in Lago Agrio, a town near oil fields formerly operated by Texaco Inc., which Chevron **acquired** in 2001. The company said secretly taped recordings showed a presidential adviser seeking to influence the outcome of the case, and Judge **Juan Nunez** indicating he'd already decided to rule against Chevron.

Nunez stepped down from the case after the recordings came to light but was reinstated yesterday after a fellow judge said Nunez's failure to submit documents supporting his own removal nullified the recusal.

Under rules of the Permanent Court of Arbitration, **Chevron** and Ecuador will each appoint an arbitrator. The two appointees then agree on a third panel member to lead the inquiry.

Choosing Panelists

Chevron chose **Horacio Grigera Naon**, director of the Center on International Commercial Arbitration at American University's Washington College of Law in the U.S. capital. Ecuador has 30 days from yesterday to appoint its representative.

International arbitration cases can take years to adjudicate, depending on the complexity of the issues and the willingness of the participants to cooperate, said **Shawn Conway**, an arbitrator and partner at Conway & Partners, a Rotterdam-based law firm.

"Speedy resolution depends how much resistance the other side throws up," said Conway, who has acted as counsel or tribunal chairman in arbitrations involving construction companies, apparel manufacturers and

software developers.

Chevron should be focusing its attention on the Amazon Basin residents who filed the lawsuit, rather than the Ecuadorean government, said [Neil Mitchell](#), a partner at Winston & Strawn LLP who is helping to represent the government.

Other Cases

"I assume Chevron is getting a lot of pressure, maybe from their shareholders," Mitchell said today in a telephone interview. "They are clearly feeling a lot of pressure."

The claim filed yesterday follows a \$1.6 billion case [Chevron](#) filed against Ecuador with The Hague-based court related to crude-production contracts signed in the 1970s. That case, filed in 2006, is pending, Mitchell said.

Ecuador is the target of five cases before the Permanent Court of Arbitration, said [Kent Robertson](#), a Chevron spokesman. The South American country has seven international arbitration cases pending against it under a separate international system overseen by the World Bank, he said.

One of those cases is a \$3.2 billion claim by [Occidental Petroleum Corp.](#) that stems from the Los Angeles-based company's 2006 expulsion from Ecuador. The national legislature voted in June to quit the World Bank's International Court for the Settlement of Investment Disputes at the request of President [Rafael Correa](#).

Corruption Perceptions

Chevron is being represented in the latest case by Atlanta-based King & Spalding LLP, which won a \$172 million award in 2007 for San Diego-based [Sempra Energy](#) from Argentina after the government froze utility prices and forced the company to accept tariffs paid in pesos.

Ecuador ranked 151st out of 180 in Transparency International's annual corruption-perceptions [index](#). The Philippines, Uganda and Nigeria were among countries that ranked higher on the list, meaning they're perceived as less corrupt than Ecuador, according to the index.

Ecuador is the third-largest foreign source of crude for California, supplying almost 20 percent of the cargoes delivered to the state's import terminals, according to the California Energy Commission.

[Exxon Mobil Corp.](#) is the largest U.S. oil company.

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Last Updated: September 24, 2009 15:14 EDT

