

Amazon Tribes Sue Chevron in U.S. Federal Court to Stop Arbitration over \$27 Billion Lawsuit

Chevron Charged with Trying to Use Secret Tribunal to Undermine Rule of Law

NEW YORK--([BUSINESS WIRE](#))--Representatives of Amazonian indigenous groups in Ecuador went to U.S. federal court in New York today to enjoin Chevron from initiating a closed-door international arbitration against Ecuador's government designed to eliminate the company's potential \$27 billion liability for contaminating a huge swath of rainforest and devastating the local population.

The Amazonian communities, who charge Chevron with dumping billions of gallons of toxic waste onto their ancestral lands and causing hundreds of deaths, assert that the oil giant's attempt to have the same claims heard anew in a secret arbitration proceeding against Ecuador – without their own participation -- is “the latest tactical attempt” by the oil major to undermine the rule of law and avoid accountability for what could be the world's worst oil-related pollution.

“Chevron's attempt is an outrage against the rule of law and violates express promises made to a U.S. federal court that Chevron would submit to jurisdiction in Ecuador and abide by any ruling there,” said Pablo Fajardo, the lawyer for the communities in Ecuador.

Chevron's request to arbitrate represents the second time that the company has violated its prior promises and sought to shift the underlying litigation away from Ecuador, where a neutral Special Master found the oil giant might be liable for up to \$27 billion in clean-up damages. The earlier effort was denied by the U.S. Supreme Court last June.

The case began in U.S. federal court in 1993 but was sent to Ecuador at Chevron's request in 2002 after company lawyers argued the courts there were better-suited to hear the environmental claims. The oil giant had argued repeatedly before the U.S. federal court that the South American nation was a fair and adequate forum, and that the trial should be moved there. Ultimately, Chevron signed a written stipulation before the U.S. court that it would accept jurisdiction in Ecuador.

But with the evidence in Ecuador now piling up against it, Chevron shifted its strategy and is now seeking to discredit Ecuador's courts and use the latest arbitration to try to force Ecuador's government to assume the liability for the clean-up. A decision by the Ecuadorian trial court is expected in the coming months.

The lawsuit asserts that Chevron's arbitration “is a patently meritless and brazen attempt to extinguish plaintiffs' claims in a forum where they cannot participate” and violates the “very representations that induced the transfer of the case to Ecuador in the first place.” The petition also charges that Chevron is undermining the rule of law by seeking an order to force Ecuador's

President to violate his country's Constitution by quashing a legal case brought by his own citizens.

“Chevron seeks to treat the Ecuadorian judiciary like a kangaroo court, where the executive branch, under compulsion of an arbitration award, simply tells the local judge to end the case and therefore the case is ended,” the plaintiffs assert in their petition.

“Chevron is playing a cynical game of musical jurisdictions: find any court that will relieve it of its responsibility to clean up one of the greatest man-made environmental disasters in the world,” said Ilann Maazel, of Emery Celli Brinckerhoff & Abady, New York-based counsel that is handling the lawsuit for the plaintiffs.

The latest dispute comes after Chevron suffered a string of embarrassing legal defeats in the U.S. before a federal appellate panel and the U.S. Supreme Court regarding a separate attempt by the oil giant to arbitrate the same issues before yet another private forum. That dispute was to take place before the American Arbitration Association in New York until it was permanently stayed by a New York federal court in 2007.

Chevron's more recent arbitration filing was under a U.S.-Ecuador trade treaty, but it is unclear if the company has a legal basis to proceed. Chevron's legal theory attempts to significantly expand the authority of the private arbitration panel to decide issues that are pending in ongoing litigations elsewhere, a fact which threatens to undermine human rights claims and the integrity of civil justice systems worldwide, said Fajardo.

If the latest arbitration attempt proceeds, a decision would be made by three law professors or private lawyers paid hourly billing rates (usually \$600 and up) while maintaining their regular jobs. The arbitrators, who can generate millions of dollars in fees for themselves in a single case, are not subject to the rules of any public court, said Fajardo.

Chevron is seeking an order from the arbitrators that it has “no liability” in the environmental case based on a 1995 release the company obtained from Ecuador's government after what the company claimed was a limited environmental clean-up. The plaintiffs assert that the clean-up was a sham and the release, currently the subject of litigation in the Ecuador case, was obtained fraudulently.

In that case in Ecuador, now in its seventh year due to what the plaintiffs assert are Chevron's stalling tactics, the indigenous and farmer communities are seeking remediation from pollution caused when Texaco (now Chevron) operated several oil fields in the Amazon from 1964 to 1990. The lawsuit alleges Chevron dumped billions of gallons of toxic “formation water” and abandoned hundreds of unlined waste pits which still contaminate soils and groundwater.

More than 1,400 excess cancer deaths in the region are related to Chevron's contamination, according to a Special Master appointed by the Court to assess damages.

About the Amazon Defense Coalition

The Amazon Defense Coalition represents dozens of rainforest communities and five indigenous groups that inhabit Ecuador's Northern Amazon region. The mission of the Coalition is to protect the environment and secure social justice through grass roots organizing, political advocacy, and litigation. Two of its leaders, Luis Yanza and Pablo Fajardo, are the 2008 winners of the prestigious Goldman Environmental Prize.