

Caplan, Lee M

From: Ko, Selene S
Sent: Friday, March 06, 2009 2:22 PM
To: Caplan, Lee M; Blanck, John I
Subject: FW: Chevron comments to USTR on ATPA
Attachments: Chevron_ATPA_performance_comments_200903.pdf

RELEASED IN PART B6

DECONTROLLED

From: Muntean, William G
Sent: Friday, March 06, 2009 1:31 PM
To: McManus, Matthew T; Duggan, J. Brian; Ko, Selene S
Cc: Johnston, Thomas (Les)
Subject: FW: Chevron comments to USTR on ATPA

Making sure that the ESC and L folks who worked last summer on clarifying our position relating to this issue have the most recent from post.

From: Edwards, David B (Quito)
Sent: Friday, March 06, 2009 1:28 PM
To: Johnston, Thomas (Les); Bowen, Andrew N; Rooney, Matthew M; Dowdy, Felix A; Garro, Susan P; Muntean, William G
Cc: Hodges, Heather M (Quito); Chritton, Andrew G (Quito); Griffiths, Douglas M (Guayaquil); Barr, Kimberly S (Quito); Brust, Frederick E (Quito); Greenwald, Michael N (Quito); Youth, Marta C (Quito); Bofill, Mariju L (Guayaquil); Fife, Nan N (Quito)
Subject: FW: Chevron comments to USTR

SBU

FYI.

It appears that Chevron, like AmCham Quito and U.S. Chamber of Commerce, has seen the February Federal Register notice, which we understand is a request for comments for the April ATPA report, as a request for comments on Ecuador's eligibility for ATPA benefits under the June review called for by Congress.

I suspect others may be confused by this as well. Suggest this may call for a meeting with USTR to sort through exactly what the February notice is about, how to use comments such as Chevron's, and what, if anything, will be done about a call for comments for the June review.

Regarding Chevron's submission, it parallels previous submissions arguing that Ecuador does not meet ATPA eligibility requirements, although in this instance they don't appear to actually address any of the eligibility criteria. A submission from about a year ago argued that the GOE was repudiating its contract with Chevron/Texaco, although I'd have to go back to more carefully review the argument.

I leave it to Chevron to summarize the facts as it pertains to their litigation. I would note, however, that the summary of the broader political and economic environment, copied below, has a number of errors of fact.

Regards,

REVIEW AUTHORITY: Adolph Eisner, Senior Reviewer

David

The situation Chevron faces in Ecuador fits into a consistent pattern of behavior by the Government of Ecuador that undermines the ATPA.

Adherence to international norms regarding transparency and the rule of law has eroded significantly under the current administration in Ecuador. The Executive Branch has dissolved Congress, replaced all judges, censored media (including seizing control of television stations), and proposed a new Constitution that, among other things would ban international arbitration and give priority to local investors over foreigners. Ecuador recently severed ties with the World Bank and the International Monetary Fund as well. The government has compelled the renegotiation of existing oil contracts and has cancelled mining contracts and frozen exploration. The Ecuadorian judicial system is plagued by processing delays, unpredictable judgments in civil and commercial cases, inconsistent rulings, and limited access to the courts. This was documented in the most recent State Department Human Rights report. Transparency International has ranked Ecuador 151st out of 180 countries surveyed for its 2008 Corruption Perceptions Index, dropping significantly from the 2006 rank of 138. Finally, and right at the heart of any extension of ATPA, Ecuador has increased to 940 the number of items subject to import tariffs. Far from embracing trade liberalization, this signals that Ecuador has distanced itself from the letter and spirit of open trade.

From: Irwin, William T [redacted] [mailto:[redacted]@chevron.com]
Sent: Friday, March 06, 2009 1:09 PM
To: Irwin, William T [redacted]
Subject: Chevron comments to USTR

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Please see attached Chevron comments submitted to USTR today in response to the FR notice solicited public comment on countries' performance under beneficiary criteria of ATPA. Happy to discuss at your convenience.

<<Chevron_ATPA_performance_comments_200903.pdf>>

Bill Irwin

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