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RELEASED IN FULL

Via Facsimile – (202) 647-0834

Ms. Roberta Jacobson
Assistant Secretary of State for Western Hemisphere Affairs
United States Department of State
Harry S. Truman Building
2201 C Street, NW Room 6262
Washington, DC 20520

Dear Madame Secretary,

Thank you for taking time from your busy schedule to speak with me last week about Chevron's concerns with the Government of Ecuador's (GOE) failure to live up to its treaty obligations under the Bilateral Investment Treaty and the importance of sending a strong message to the GOE about its treaty obligations. This is an issue of importance to not only Chevron, but the broader US business community that has worked hard to ensure strong investment rules that are critical to global risk management.

As background, since 2003, Chevron has been involved in a lawsuit in Lago Agrio, Ecuador regarding environmental impacts in part of Ecuador's Amazon basin. The litigation has been rife with fraud on the part of the plaintiffs' US and Ecuadorian lawyers, which has been confirmed by at least seven US courts. Despite the well-documented fraud, in February 2011, the Ecuadorian court hearing the case ruled against Chevron and ordered the company to pay \$18.2 billion in damages, based largely on the report of a purportedly independent court-appointed expert.

In light of the tainted judicial process in Ecuador, in September 2009, Chevron filed an arbitration claim against Ecuador under the investor-state arbitration provisions of the BIT, claiming Ecuador violated its obligations under the BIT and other international law by failing to accord Chevron fair and equitable treatment in the litigation, Ecuador breached its contractual obligation to Chevron, and other claims. On February 16, 2012, the BIT tribunal in an interim award ordered Ecuador, including its judiciary, to "take all measures necessary to suspend or cause to be suspended" enforcement and recognition of the judgment against Chevron, until the BIT tribunal had an opportunity to review the merits of Chevron's claims.

On February 20, 2012, an appellate court in Ecuador denounced the BIT Tribunal's award and ratified an order moving the judgment against Chevron a step closer to becoming enforceable under Ecuadoran law. President Correa has also denounced the BIT Tribunal award, calling it a "monstrosity." Ecuador has taken no proactive steps whatsoever to prevent enforcement of the judgment and encouraged by Ecuador's conduct, the plaintiffs' attorneys have now filed enforcement actions in both Canada and Brazil and have threatened to file in numerous other countries.

REVIEW AUTHORITY: Alan Flanigan, Senior Reviewer

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We were encouraged that the USTR in its June 30th report on the Operation of the Andean Trade Preferences Program specifically noted concerns about Ecuador's commitment to international arbitration for investor disputes, discussed Chevron's BIT arbitrations with Ecuador and stated that the USG is monitoring Ecuador's compliance with ATPA's eligibility criteria concerning its BIT treaty obligations. Unfortunately, the GOE has mischaracterized the USTR report and is claiming that they received a clean bill of health. In essence, the GOE is flouting both the BIT arbitral panel's award and the USG report.

It is urgent and imperative that the USG send a strong message to the GOE that you expect that Ecuador will abide by the award issued by the BIT Tribunal and take measures to prevent enforcement of the judgment pending final disposition of the claims by the BIT proceeding. We are well past the point of having the GOE treat us fairly in the Lago Agrio litigation; that will be determined by the BIT Tribunal. The key now is for the USG to convey that the GOE must live up to its BIT treaty obligations and failure to do so could have consequences for the US preference programs whose criteria include adherence to BIT/international investment awards.

I very much appreciate your ongoing interest in this issue which now has much broader implications for the US business community and US treaty obligations. We look forward to working with you to ensure that the GOE and all governments that have Bilateral Investment Treaties with the United States live up to their obligations.

Sincerely,


Edward B. Scott