

March 3, 2010

RELEASED IN FULL

The Honorable Miriam Sapiro
Deputy U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508

The Honorable Robert Hormats
Under Secretary for Economic, Energy
and Agricultural Affairs
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Ambassador Sapiro and Under Secretary Hormats:

We are writing to bring to your attention an unprecedented attempt to undermine U.S. treaty rights and to urge your help in addressing this time-sensitive matter.

At issue is a deeply-troubling effort by the Government of Ecuador to use U.S. courts to interfere with and enjoin a Bilateral Investment Treaty (BIT) arbitration brought under the U.S.-Ecuador BIT. Following the request for initiation of an investor-state dispute by Chevron Corporation against Ecuador under the U.S.-Ecuador BIT in September 2009, the Government of Ecuador sought a stay of the arbitration in the U.S. District Court of the Southern District of New York. In February 2010, the Government of Ecuador sought a preliminary injunction of the BIT arbitration, on which the court will hold a hearing on March 10.

The Government of Ecuador's action is not only directly contrary to its consent to arbitration under the terms of the U.S.-Ecuador BIT, it represents an extraordinary effort to undermine its treaty obligations with the United States and, if allowed to proceed, would have highly negative effects on the U.S. BIT program and U.S. treaty rights more broadly.

Ecuador's action seeks to shield itself from valid treaty obligations with the United States by using U.S. courts to stop international arbitration proceedings outside the jurisdiction of those courts. More broadly, the precedent that Ecuador seeks to set would cast doubt on the ability of U.S. investors to use BIT arbitration, thereby undermining the purpose of this decades-old program, which is important for broader international economic and policy issues as well. It would send a message to other foreign governments that they could similarly use domestic courts to limit U.S. rights under BITs and other treaties.

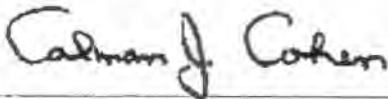
REVIEW AUTHORITY: Alan Flanigan, Senior Reviewer

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While the Government of Ecuador's action has no legal merit, we believe that it is vitally important that the United States Government provide its official position, given the far-reaching implications that this decision could have on the U.S. BIT program, U.S. investors, and treaty rights more broadly. In particular, we ask for your support to ensure that the United States Government submits a statement of interest to the U.S. District Court, so that the Court is fully apprised of the domestic and international legal issues involved in this unprecedented request.

Thank you for your consideration of our request.

Sincerely,



Calman Cohen
President
Emergency Committee for American Trade



John Engler
President
National Association of Manufacturers



Thomas J. Donohue
President and CEO
U.S. Chamber of Commerce

cc: The Honorable Harold Koh, Legal Advisor, U.S. Department of State
Mr. Michael Froman, Deputy National Security Adviser, International Economic
Affairs