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NEWS RELEASE

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Will Chevron Case Take Down Trade Pact ‘Investor-State’ Enforcement System?

Unprecedented Ruling Today by International Investor Tribunal Orders Ecuadorian Government to Violate Its Constitution, Interfere in Its Independent Court System to Help Chevron Evade Liability for Amazonian Contamination

WASHINGTON, D.C. – An unprecedented ruling today, in which an investor-state international arbitral tribunal initiated by Chevron ordered the Ecuadorian government to interfere in the operations of Ecuador’s independent court system on behalf of the oil giant, provides a chilling glimpse of how corporations are trying to use international investor tribunals to evade justice, said Public Citizen.

After having lost on the merits in Ecuador and U.S. courts and after 18 years of trying to stall judgment, Chevron turned to an ad hoc “investor-state” tribunal of three private lawyers as the last chance to help the company avoid paying to clean up contamination in the Amazonian rainforest. Chevron is trying to get this private tribunal to suspend enforcement of or alter an \$18 billion judgment against Chevron rendered by a sovereign country’s court system.

The tribunal issued a ruling today even though it has not even determined that it has jurisdiction over the case. Past such international investor cases in which tribunals have ordered governments to pay cash damages to corporations have led to growing controversy.

“The Ecuadorian government should not violate its own constitution and interfere with its independent courts’ order for Chevron to clean up its horrific contamination in the Amazon, because some unelected ad hoc tribunal of three private sector lawyers called together by Chevron to meet in a rented room in Washington, D.C., pretends to have the authority to second-guess 18 years of U.S. and Ecuadorian court rulings,” said Lori Wallach, director of Public Citizen’s Global Trade Watch.

“Consider the broader implications of this star chamber ‘investor-state’ system: How can a panel of three unelected private sector lawyers order a sovereign government to violate its own constitution’s separation of powers and interfere in its court system, all to help Chevron (a company whose severe contamination of the Ecuadorian Amazon has been repeatedly proven), and how can that tribunal do this all before it has even decided that it has jurisdiction over this case,” Wallach said.

Meanwhile, the three private-sector lawyers serving as tribunalists on this kangaroo court will continue to rack up large hourly fees even as they order Ecuador's government to help Chevron deny justice to the 30,000 Amazonian indigenous people who have won a historic \$18 billion clean-up of deadly environmental contamination. Tribunalists in this system, who alternate between serving as "judges" and representing corporations in cases before panels of their colleagues, are paid on an hourly basis.

"The only silver lining of this obscene ruling is that having one of these shady investor-state tribunals presume to attack a country's constitution, justice system and 30,000 people whose futures rely on Chevron cleaning up its mess could lead to the implosion of the entire investor-state system, which international companies are increasingly using to try to evade justice worldwide," said Wallach.

These unaccountable investor-state tribunals have issued perverse rulings in the past on behalf of corporate claimants. Recent U.S. trade agreements empower foreign corporations to use this system to skirt our domestic courts and directly use our government before these corporate tribunals to obtain payment of unlimited taxpayer funds when they claim domestic environmental, land use, health and other laws undermine their "expected future profits." More than \$350 million has been paid by government to corporations in attacks on toxics bans, environmental issues and zoning permits under the North American Free Trade Agreement (NAFTA.) Billions in additional claims are pending. Possible inclusion of the investor-state private enforcement system for corporations to sue governments is becoming one of the most controversial issues in the first "trade" deal the Obama administration is negotiating – a new Trans-Pacific Partnership trade deal.

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