

Corporate Attacks: Environment

Case Study: Amazonian Oil Pollution

Investor-State Dispute Settlement (ISDS) grants corporations shocking powers to attack the laws we rely on for a clean environment, financial stability, affordable medicines, safe food and decent jobs. The cases are decided by tribunals composed of three private attorneys, some of whom rotate between serving as “judges” and bringing cases against governments. The tribunalists are paid by the hour and are unaccountable to any court system or electorate. Under U.S. trade and investment pacts alone, corporations have already won more than \$3.6 billion in taxpayer money, with \$38 billion still pending.

Chevron v. Ecuador *Case Pending*

In 2009, Chevron Corporation – one of the largest U.S. oil corporations – [launched a case against Ecuador under the U.S.-Ecuador Bilateral Investment Treaty \(BIT\)](#) seeking to evade payment of a multi-billion dollar court ruling against the company for widespread pollution of the Amazon rainforest. For 26 years, Texaco, later acquired by Chevron, performed oil operations in Ecuador. Ecuadorian courts have found that during that period the company [dumped billions of gallons of toxic water and dug hundreds of open-air oil sludge pits in Ecuador’s Amazon](#), poisoning the communities of some 30,000 Amazon residents, including the entire populations of six indigenous groups (one of which is now extinct). After a legal battle spanning two decades and two countries, in November 2013 Ecuador’s highest court [upheld prior rulings against Chevron for contaminating a large section of Ecuador’s Amazon](#) and ordered the corporation to pay \$9.5 billion to provide desperately needed clean-up and health care to afflicted indigenous communities.

Instead of abiding by the rulings, Chevron asked an investor-state tribunal to challenge the decision produced by Ecuador’s domestic legal system. [Chevron has asked the tribunal](#) to order Ecuador’s taxpayers to hand over to the corporation any of the billions in damages it might be required to pay to clean up the still-devastated Amazon, plus all the legal fees incurred by the corporation in its investor-state pursuit. In its investor-state claim, Chevron is seeking to re-litigate key aspects of the lengthy domestic court case, including whether the effected communities even had a right to sue the corporation.

Chevron is claiming that [its special foreign investor rights under the BIT have been violated](#). This, despite the fact that [Texaco's investment in Ecuador ended in 1992](#), the BIT [did not take effect until 1997](#), and the BIT is [not supposed to apply retroactively to cover past investments](#).

The investor-state tribunal in this case has granted several of Chevron's requests. It has ordered Ecuador's government to [violate its own Constitution and block enforcement of a ruling upheld on appeal in its independent court system](#). And in a September 2013 decision, the tribunal took it upon itself to offer an interpretation of the Ecuadorian Constitution, which conflicted with that of Ecuador's own high court, and [declared that rights granted by Ecuadorian law do not actually exist](#). The tribunal has not yet concluded its findings, and a final decision is pending.

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