

International Arbitral Panel Enjoins Ecuador in the Chevron Matter

February 27, 2012 by [Louis M. Solomon](#)

In the ongoing battles between Chevron and Ecuadorian plaintiffs and, relatedly, with Ecuador itself, an international arbitration tribunal has issued a [Second Interim Award on Interim Measures](#). The matter is captioned, In the matter of arbitration before a tribunal constituted in accordance with the Treaty Between the United States of America and the Republic of Ecuador Concerning the Encouragement and Reciprocal Protection of Investments, Signed 27 August 1993 (the ‘Treaty’) and the UNCITRAL Arbitration Rules 1976 Between Chevron Corporation et al and The Republic of Ecuador.

In the Second Interim Award, the Panel first determined that, under Article 26 of the Uncitral Rules, the Panel had authority to take interim measures. The Panel then determined that Chevron had established a sufficient case both as to the Panel’s jurisdiction and to its right to the relief on the merits. The Panel found that substantial harm “may” befall Chevron before the Panel could decide the dispute and grant a final award and that, if the harm happened, it “may” be irreparable.

On the basis of these findings, the Panel issued an injunction requiring the sovereign state of Ecuador to “take all measures necessary to suspend or cause to be suspended the enforcement and recognition within and without Ecuador of the judgments by the Provincial Court of Sucumbios”. The interim injunction included that Ecuador take all measures “to preclude any certification” by Ecuador that would cause said judgments to be enforceable. The Panel set a \$50 million (U.S.) to secure the injunction.

The Panel’s order is devoid of explanation. It does not explain the basis for its jurisdiction. Nor does it explain how it could issue the injunction in the face of findings that irreparable harm “may” ensue. Nor did it explain how it had the power to order Ecuador to take the steps necessary, since the judgement was not in favor of or against Ecuador.

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