

Chevron's dirty fight in Ecuador

The giant oil corporation has been fined \$8.6bn for an environmental disaster that has been called 'the Amazon's Chernobyl'. But guess what? It may end up paying nothing

By Guy Adams

Wednesday, 16 February 2011



Oil-covered dry leaves hang over a natural pool contaminated with crude oil near Lago Agrio

(Getty Images)

No regrets, no apologies and not a penny in damages. The US energy giant Chevron came out fighting last night after a court in Ecuador ordered it to pay \$8.6bn (£5.3bn) in fines and clean-up costs, plus \$900m reparations, to the victims of oil pollution that fouled a swathe of Amazon rainforest along the country's remote north-eastern border.

The sum was the largest ever levied in an environmental lawsuit anywhere in the world.

Supporters of the indigenous villagers who brought the case said they were celebrating a landmark victory in the wider battle to hold multinational corporations to account for their conduct overseas.

Chevron will not be admitting defeat, however. Its lawyers, who have already spent 18 years and tens of millions of dollars contesting the lawsuit, pledged yesterday to appeal against the fine through every conceivable legal avenue, on at least three continents. In statements, the oil company branded Ecuador's legal system corrupt and "illegitimate", and said the court's ruling formed part of a vast "extortion scheme". A spokesman for Chevron claimed that the fine, imposed by a judge in the town of Lago Agrio, was "unenforceable in any court that observes the rule of law".

Chevron's lawyers have already filed appeals and counter-suits related to the case in six US courts. The company no longer has assets in Ecuador, so it intends to force the plaintiffs to pursue it internationally if they wish to see any of the damages. Chevron is also attempting to take the case to arbitration at a tribunal in the Netherlands.

A New York judge, Lewis A Kaplan, took the extraordinary step last week of pre-emptively blocking any financial judgment against the US-based company, anywhere in the world, for at least 28 days. He suggested that attempts to collect Chevron's assets might disrupt the day-to-day business of a company that was vital to the global economy.

That the dispute has reached this heady stage is hardly surprising, given both its enormous complexity and the vast amounts of money now at stake. The case stretches all the way back to 1964, when Texaco entered a partnership with Ecuador's state oil company, Petroecuador, to extract oil from the country's remote Oriente region.

During almost 30 subsequent years of exploration, billions of gallons of waste oil and water were dumped into open pits, fouling fishing grounds, damaging crops, killing farm animals and leading to an increase in cancer cases among residents of villages in the region. So severe was the damage that the fallout has been widely described as "the Amazon's Chernobyl". Experts appointed by the Ecuadorean courts have calculated that the pollution from the oil wells killed at least 1,400 people.

When Texaco pulled out of the country, in 1992, it agreed to spend roughly \$40m cleaning up some of the damage. Shortly afterwards, the first version of the current lawsuit was filed against Texaco in New York by lawyers representing 47 named residents of the region.

In 2001, Texaco was bought by California-based Chevron, which became America's second-biggest oil firm but inherited the still-ongoing lawsuit in the process. In 2003, its lawyers successfully argued that the case should be heard in Ecuador. It has taken almost eight years for it to come to court. In that time, the fate of the 47 plaintiffs, who are seeking damages for 30,000 fellow members of their community, has become an international cause célèbre, gaining the support of Hollywood stars such as Darryl Hannah. The lawyer who represents the residents, Pablo Fajardo, won the Goldman Environmental Prize in 2008 for his work on the case.

Mr Fajardo called Monday's 188-page ruling, which will roughly double the £5.75bn fine if Chevron does not admit wrongdoing in the next 14 days, a "triumph of justice", saying he was only disappointed that the level of damages wasn't higher. "Today's judgment affirms what the plaintiffs have contended for the past 18 years about Chevron's intentional and unlawful contamination of Ecuador's rainforest," he added. "Rather than accept that responsibility, Chevron has launched a campaign of warfare against the Ecuadorean courts and the impoverished victims of its unfortunate practices."

Despite its earlier efforts to have the case held in Ecuador, Chevron now claims that the local court system is institutionally corrupt. Using undercover investigators with hidden recording devices, it claims to have found proof of illegal collusion between the plaintiffs and the judges. "The evidence of fraud on the part of the plaintiffs' lawyers is overwhelming," said a spokesman. "We intend to see that the perpetrators of this fraud are held accountable for their misconduct."

Analysts think it unlikely that Chevron, which reported earnings of \$19bn last year, will agree to pay any damages, since the cost of continuing to appeal is far less than the amount it would have to pay to settle. However, the row may be taking some of the gloss off its performance: while shares in BP and Shell rose yesterday, Chevron's stock was down by about 1 per cent in early afternoon trade in New York.