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## **Fact Sheet: Arbitration Between ExxonMobil and Venezuela**

*Despite Venezuela's proposal for an amicable solution and an ongoing international arbitration process, ExxonMobil has resorted to aggressive, unilateral and coercive measures to disqualify any proposed solution, something that could be described as "judiciary terrorism." Venezuela's intention has been to bring illegal oil projects from the rich Orinoco Oil Belt into its legal framework and thus stop the continued transferring of resources needed for social development from the People of Venezuela to the coffers of large foreign multinational companies. This has been accepted by all oil companies operating in Venezuela, except ExxonMobil.*

### **The Orinoco Oil Belt and the Slow Privatization of Natural Resources**

The Orinoco Oil Belt is considered the largest hydrocarbons deposit on the planet, containing up to 1.4 trillion barrels of heavy crude oil. It will allow Venezuela to become the country with the largest proven crude oil reserves in the world – 315 billion barrels of oil – by the year 2009. With a total production cost of around \$ 7 per barrel of light synthetic crude oil, this area represents one of the most profitable fields in the world, particularly when compared with the Canadian Tar sands developments or with any offshore oil developments.

In the 1990s, through a series of dubious legal measures intended to reverse Venezuela's 1975 nationalization of its oil industry, private oil companies began to explore for oil in different parts of the country including in the Orinoco Oil Belt. At that time, royalties paid by the foreign companies amounted to only 1% of the value of oil extracted from the ground. Furthermore, all contracts intended to subordinate the sovereignty of the State to foreign institutions and make PDVSA a sort of hostage of foreign international oil companies, thus allowing them to manipulate the Venezuelan State.

### **The 2001 Hydrocarbons Law**

This situation was corrected when the Hydrocarbons Law of 2001 ratified Venezuelan sovereignty over its natural resources. The law also mandated adjustments to all strategic association contracts while allowing private investment in the oil industry. Under the new contracts, the state maintains majority ownership in the projects and the tax and royalties incomes were increased.

The adoption of this new legal framework led to an amicable negotiation process in which 30 out of 32 operation agreements were transferred into new mixed companies.

It was following the decree number 5200 issued by the National Assembly of the Bolivarian Republic of Venezuela on February 27<sup>th</sup> 2007 and in consistence to the new Hydrocarbons Law of 2001, that Petróleos de Venezuela (PDVSA), Venezuela's national oil company started the negotiations that included the new ownership structure of the projects of the Orinoco Oil Belt.

### **Compensation Talks and Negotiations in 2007**

Last July all companies that participated in the Orinoco Oil Belt were invited to negotiate with full transparency a smooth hand-over of equity stakes so as to make PDVSA the majority stake holder as provided under Venezuelan law. While Chevron, Statoil, Total, ENI, BP and Sinopec agreed to



the handover, only ExxonMobil and ConocoPhillips chose to reject the terms of the new joint ventures.

Paradoxically, Exxon-Mobil had been among the first companies to sign the memorandums of understanding that allowed Venezuela to assume majority equity stakes in the Orinoco Belt.

Chevron, Statoil, Total, ENI, BP and Sinopec all signed agreements transferring 60 to 83% of their oil interests to the Venezuelan national oil company PDVSA. In compensation talks, Total (France) and Statoil-Hydro ASA (Norway) received remuneration of \$ 1.1 billion from PDVSA in exchange for majority ownership of the Sincor project in the Orinoco Oil Belt.

ExxonMobil has not written down the value of its 41.7% stake of the Orinoco Oil Belt field from its financial reports, which only represented approximately 2% of the company's worldwide production. While the company has not announced the compensation it is expecting to receive from this field, experts estimate it at \$ 750 million.

Since an agreement for compensation has not been reached, ExxonMobil and ConocoPhillips resorted to international arbitration, an option that was provided in the initial contract. Exxon's dispute revolves around two joint ventures: the Cerro Negro project and the La Ceiba project. In September, Exxon affiliates filed an arbitration claim with the International Center for Settlement Disputes against the Venezuela government seeking the fair market value of the expropriated investments.

Negotiations have however continued with ConocoPhillips so as to arrive to a fair agreement. ExxonMobil preferred to resort to more aggressive, unilateral and coercive methods, thus rejecting any attempts made by Venezuela to find an amicable solution.

It is important to note that last year PDVSA purchased 99% of the Cerro Negro project bonds at a cost of \$ 501 million as well as the Hamaca project's debt of \$ 129 million.

### **Present Situation**

Despite all efforts made by Venezuela to arrive to a fair negotiated settlement using the legal and procedural tools provided in the contract, ExxonMobil decided to mobilize an additional legal battle against the Bolivarian Republic of Venezuela and PDVSA, an act that showed lack of respect for the terms of international arbitration.

ExxonMobil introduced three lawsuits, one in an American court, one in a British court and one in a Dutch court against PDVSA in an attempt to exercise legal pressure on Venezuela. All of them have issued temporary precautionary measures against PDVSA and are awaiting PDVSA's response.

According to ExxonMobil spokespersons these measures are taken under the premises that PDVSA will not dispose of enough funds to compensate ExxonMobil after a settlement is decided in the arbitration courts.

The measures are, however, made unnecessary by the following facts:

- Venezuela has never defaulted in the payment of any of its debts, including in previous nationalization processes.
- Venezuela has reduced its foreign public debt from over \$31 billion in 2004 to \$25.9 billion at the end of 2007.



- PDVSA's current global assets are estimated at approximately \$107 billion.
- PDVSA Debt to Equity ratio is one of the lowest worldwide for an Integrated Oil Company of the size of the Venezuelan enterprise.
- If taking into account the Orinoco Oil Belt, Venezuela has the largest crude oil reserves in the world.
- PDVSA's credit rating has not been affected, even with these announcements.

**U.S. Court:** This court accepted the temporary freezing of \$ 315,000,000 from a fund that receives the income from the Chalmette refinery, a 50-50 joint venture between ExxonMobil and PDVSA.

**British and Dutch Courts:** Both courts temporarily froze PDVSA's assets with up to a value of \$12 billion.

Venezuela and PDVSA have continuously proven their respect for signed contracts and international law and will therefore continue to strive for a fair settlement in the arbitration cases.

The announcement of the cessation of business relations with ExxonMobil is the result of that company's aggressive and coercive behavior against the Bolivarian Republic of Venezuela. However, the decision applies only to spot-market purchases, and does not affect already established supply contracts.

The value of the precautionary action is far higher than what ExxonMobil could hope to receive in compensation for the project it abandoned in the Orinoco Oil Belt. Moreover, the Bolivarian Republic of Venezuela rejects suggestions that PDVSA operations would be negatively affected by ExxonMobil's attempt to freeze its assets, or by other moves to undermine Venezuela's sovereign management of natural resources to benefit the people of Venezuela.

ExxonMobil's real intentions are not very clear, but they have generated a situation of uncertainty in the global oil market, which has led to an increase in oil prices. They have also caused economic harm to Venezuela, generating a situation that affected its Sovereign bonds.

Lastly, and certainly most importantly, Venezuela demands that ExxonMobil respect international law as dictated by the International Centre for Settlement of Investment Disputes.