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July 6, 2017

VIA EMAIL

Beatriz Balbin
Chief, Special Procedures Branch, OHCHR
Michel Forst
Special Rapporteur on the situation of
human rights defenders
Victoria Lucia Tauli-Corpuz
Special Rapporteur on the rights of
indigenous peoples
registry@ohchr.org

**Re: Joint Communication from Special Procedures, dated June 21, 2017;
Reference: AL OTH 10/2017**

Dear Ms. Balbin, Mr. Forst and Ms. Lucia Tauli-Corpuz:

We write on behalf of our client Chevron Corporation (“Chevron”) in response to the communication from Special Procedures of the United Nations Office of the High Commissioner for Human Rights (“OHCHR”) addressed to Mr. John S. Watson, Mr. R. Hewitt Pate, Mr. Kent Robertson, and Ms. Linsi Crain, dated June 21, 2017, requesting more information about the judgment against Chevron in Ecuador, and seeking information about Chevron’s business and human rights policies.

Chevron appreciates the OHCHR’s important mandate to promote and protect human rights, as well as the mandates of the Special Rapporteurs, Mr. Michel Forst and Ms. Victoria Lucia Tauli-Corpuz, to address the human rights matters that are brought to their attention. Chevron also appreciates the opportunity to respond to all of the issues that you raised in your communication. To that end, we propose to provide a detailed response by August 4, 2017. However, if the Special Rapporteurs prefer to receive Chevron’s response by an earlier date, please inform us, and we will comply with that request.

At the outset, we wish to make clear that the allegations referenced in the communication that have been made against Chevron are baseless and unfounded. The communication requests information regarding enforcement of the judgment rendered in 2013 by the National Court of Justice of Ecuador against Chevron. The Ecuadorian judgment, which is the product of fraud, corruption and bribery, is, in Chevron's view, not a matter on which the Special Rapporteurs and the OHCHR should expend their limited resources.

As we will explain in detail in our subsequent submission, more than a dozen courts and government officials worldwide have independently found that the Ecuadorian judgment is a product of a fraudulent (and even criminal) scheme. Notably, the U.S. District Court for the Southern District of New York held an 8-week trial against a number of participants in the Ecuadorian litigation, including the plaintiffs in that litigation and their legal counsel, regarding Chevron's claims that they had violated the U.S. Racketeer Influenced and Corrupt Organizations Act ("RICO"). The New York federal court issued a 485-page judgment setting forth its reasons for concluding that the Ecuadorian judgment had been procured through the defendants' bribery, coercion and fraud.¹ The U.S. Court of Appeals for the Second Circuit unanimously upheld the New York judgment, and observed that the defendants had elected not to challenge the sufficiency of the evidence to support the trial court's findings of fraud.² The Second Circuit concluded that "[t]he record in the present case reveals a parade of corrupt actions by the [Lago Agrio Plaintiff]'s legal team, including coercion, fraud, and bribery"³ And, on June 19, 2017, the U.S. Supreme Court rejected a Writ of Certiorari petition, which sought review of the Second Circuit's opinion. As a result, these proceedings are now final.⁴

Chevron has additionally sought relief against Ecuador under a bilateral investment treaty entered into between Ecuador and the United States, which requires Ecuador to afford certain protections to United States investors (and *vice versa*), including due process in Ecuador's courts, fair and equitable treatment, and rights guaranteed under international law. Specifically, Chevron and TexPet (the former Texaco subsidiary that actually operated in Ecuador) claim that Ecuador failed to honor contractual commitments that it assumed under a settlement-and-release agreement that addressed the environmental liability associated with the sites operated by TexPet and Ecuador's state-owned oil company, Petroecuador.

¹ *Chevron Corp. v. Donziger*, 974 F. Supp.2d 362 (S.D.N.Y. 2014), available at <http://www.nysd.uscourts.gov/cases/show.php?db=special&id=379>.

² *Chevron Corp. v. Donziger*, 833 F.3d 74 (2d Cir. 2016), available at <http://cases.justia.com/federal/appellate-courts/ca2/14-0826/14-0826-2016-08-08.pdf?ts=1470672005>.

³ *Chevron Corp. v. Donziger*, 833 F.3d 74, 85 (2d Cir. 2016), available at <http://cases.justia.com/federal/appellate-courts/ca2/14-0826/14-0826-2016-08-08.pdf?ts=1470672005>.

⁴ Denial of a Writ of Certiorari petition means that the decision rendered by the Second Circuit Court of Appeals stands as the final decision. See https://www.supremecourt.gov/orders/courtorders/061917zor_6537.pdf.

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Chevron and TexPet also claim that Ecuador, *inter alia*, failed to administer justice fairly in the Lago Agrio trial that resulted in the Ecuadorian judgment at issue. In April and May 2015, the arbitral tribunal conducted a hearing on Chevron's and TexPet's claims arising from the fraud committed in the Ecuadorian courts, and the parties are currently waiting for a decision on those claims.

We take this opportunity to commend the Special Rapporteurs on the important work that they do, and Chevron will make a complete submission by August 4, 2017 so that the Special Rapporteurs have the complete and accurate record before them regarding the matters referenced in their communication to Chevron. We would appreciate receiving a response confirming that the Special Rapporteurs have received this letter.

A handwritten signature in black ink, appearing to read "R. Doak Bishop". The signature is written in a cursive, flowing style.

R. Doak Bishop
Partner