

AMERICAS SOCIAL FORUM: Explosive Mix of Oil and Free Trade

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QUITO, Jul 29 (IPS) - Ecuador and other Andean nations should not accept international trade tribunal rulings on their tax policy for foreign oil companies, as this implies renouncing sovereignty, said activists at the first Social Forum of the Americas, meeting in Quito.

On Jul. 1, an international trade arbitration panel in London ruled that the Ecuadorian state must pay the California-based Occidental Petroleum 75 million dollars in value added tax (VAT) refunds that were deemed "wrongfully withheld".

Ecuador has until Aug. 11 to appeal the verdict. According to activists and officials, the possibility of arbitration was set by Washington as one condition for a free trade agreement currently under negotiation with Ecuador.

This recent ruling is only one example of many similar cases brought by foreign companies running oil operations in Ecuador, said Cecilia Chérrez with Ecological Action of Ecuador, Esperanza Martínez with Oilwatch, Sara Larraín, the coordinator of the Programme for a Sustainable Southern Cone and other activists and non-governmental organisations (NGOs).

Under Ecuadorian law, exporters have the right to claim refunds on VAT paid on purchases of supplies used in the manufactured products they export.

The companies argue that since crude oil must undergo treatment before it can be sold, the VAT paid in buying the inputs for the treatment should be refunded.

However, activists, backed by the head of Ecuador's tax office (SRI) Elsa de Mena, say crude oil is a natural resource, not a manufactured product.

A large proportion of the VAT receipts presented by Occidental -- which were seen by IPS -- are for dinners in restaurants, theatre and artistic performances, purchases of items like tennis and volley balls and bathroom tiles, and even bills for buying pets.

Campaigners say the United States pressed for the matter to go to international arbitration and that it aims to do the same in other cases.

Former foreign minister of Ecuador Heinz Moeller told the press he had accepted the arbitration, as otherwise the United States would eliminate Ecuador from the Andean Trade Preferences Act (ATPA), which gives privileged access to the U.S. market for products from Andean nations in compensation for the expenses incurred in their fight against drug trafficking.

"Demands are being put on Ecuador to accept international arbitration as the best way to resolve disputes. This implies renouncing legal sovereignty and submitting to trade tribunals which answer to private interests and seek to leave unpunished the environmental, economic and social damage that oil companies leave in their wake in our countries," said Chérrez.

The Spanish oil company Repsol-YPF also called for arbitration, seeking a refund of 15 million dollars.

And the U.S. company ChevronTexaco has threatened to turn to an international tribunal if a case against them for environmental damage in the Amazon jungle ends in a ruling that orders the firm to pay compensation to the indigenous people and small farmers who were affected.

ChevronTexaco announced that if it loses the case it will turn to an international tribunal to decide whether reparations are the company's responsibility or should be met by the state-owned oil firm Petroecuador, the U.S. company's partner at the time.

"Arbitration has been discussed as a condition in the negotiations for a free trade agreement between the United States and Ecuador," said Chérrez.

"The negotiations involving the United States, Ecuador, Colombia and Peru have made pretty clear the hidden intentions behind the trade offers" from Washington, she added.

Other oil companies are also planning to seek arbitration against Ecuador to demand VAT refunds, which according to the SRI total more than 250 million dollars .

Activists and NGOs used the opportunity of the Jul. 25-30 Social Forum to complain that this type of conditions demonstrate what the future holds for countries signing trade agreements with the United States.

The possibility of international arbitration forms part of the negotiations between the three Andean nations and Washington.

U.S. Ambassador in Ecuador, Kristie Kenney, told the press no free trade treaties would be signed until all conflicts with U.S. oil companies were resolved. This demand is one of the conditions in the "investors' rights" section of the bilateral agreements.

"In Colombia, conditionalities have been eroding the legal system in order to favour U.S. companies responsible for serious environmental and social impacts. Something similar has been happening in Chile following the (implementation of) the free trade agreement with the United States," on Jan. 1, said Hildebrando Vélez, a campaigner with Friends of the Earth Colombia.

"The United States has not signed any international treaty which obliges it to take any responsibility for the environment or (to respect) the rights of native peoples," said Larraín.

Free trade agreements "constitute mechanisms to impose the weak regulations of that country, forcing our own to disappear," argued the environmentalist.

This week's Social Forum in the Ecuadorian capital has drawn some 8,000 activists, according to the organisers. The gathering forms part of the World Social Forum (WSF), which will return to the southern Brazilian city of Porto Alegre in January 2005 after this year's edition, which was held in Mumbai, India. (END/2004)