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SCC Espouses "Generous and Liberal Approach" to Recognition & Enforcement of Foreign Judgements

The Supreme Court of Canada has released its highly anticipated decision in *Chevron Corp. v. Yaiguage, 2015 SCC 42*.

The Plaintiffs are residents of rural provinces in Ecuador and represent approximately 30,000 indigenous people of the Ecuadorian Amazon who seek the recognition and enforcement in Ontario of a Judgment of the Ecuadorian Court against Chevron Corporation ("Chevron") in the amount of \$9.5 billion USD. The Plaintiffs seek to enforce the Judgment in Ontario against Chevron and its Canadian subsidiary, Chevron-Canada Limited ("Chevron Canada").

The Judgment was rendered in Ecuador to remediate massive environmental contamination by Chevron's predecessor, Texaco Inc., following Texaco's oil exploration and extraction activities in the oil-rich Lago Agrio region of Ecuador.

In 2013, the Plaintiffs commenced an action for recognition and enforcement of the Judgment in the Ontario Superior Court of Justice. Chevron and Chevron Canada brought a motion to have the action stayed on jurisdictional grounds, amongst others. The motion's judge held that the Ontario Court had jurisdiction, but opted to stay the proceeding pursuant to section 106 of the Ontario *Courts of Justice Act*, which allows the Court to stay a proceeding on its own initiative, on the grounds that Chevron does not have any assets or conduct any business in Ontario.

The Court of Appeal overturned the motion's judge, holding that it was not an appropriate case to impose a discretionary stay. Chevron and Chevron Canada appealed to the Supreme Court of Canada.

The Supreme Court of Canada dismissed the appeal. Writing on behalf of a unanimous Court, Justice Gascon held that the only prerequisite to the recognition and enforcement of a foreign judgment is that the foreign court had a real and substantial connection with the litigants or the subject matter of the dispute, or that the traditional bases of jurisdiction were

satisfied. There is no separate requirement to demonstrate a real and substantial connection between the dispute or the defendant and the enforcing forum. In so holding, the Supreme Court emphasized the "generous and liberal" approach Canadian courts have historically taken to the enforcement of foreign judgments and the importance of permitting the doctrine of comity and reciprocity to evolve concomitantly with the realities of international business relations, cross-border transactions, and inter-jurisdictional mobility.

On the facts of the case, the Supreme Court held that the action could proceed in Ontario since Chevron had attorned to the jurisdiction of the Ecuadorian Court in the underlying action and Chevron Canada has a physical presence and conducts business in Ontario.

While the Supreme Court's decision merely paves the way for the enforcement action to proceed in Ontario and does not finally determine the matter, the decision provides important guidance on how Canadian courts should approach actions for the recognition and enforcement of foreign judgments and ensures that Canadian law reflects the realities of a globalized world.