

Corporate Attacks: Health

Case Study: Toxic Fuel Additive

Investor-State Dispute Settlement (ISDS) grants corporations shocking powers to attack the laws we rely on for a clean environment, financial stability, affordable medicines, safe food and decent jobs. ISDS empowers multinational corporations to sue our governments before panels of three corporate lawyers. The corporate lawyers can award the corporations unlimited sums to be paid by America's taxpayers, including for the loss of expected future profits the corporations claim they would have earned if the domestic law was never enacted. The corporate lawyers' decisions are not subject to appeal and the amount they can order taxpayers to give corporations has no limit.

Ethyl v. Canada

Case Settled (investor paid \$13 million, ban reversed)

Ethyl Corporation, a U.S. chemical company, [launched a NAFTA investor-state case in 1997 over a Canadian ban of MMT](#), a toxic gasoline additive used to improve engine performance. MMT contains manganese – a [known human neurotoxin](#). Canadian legislators, concerned about MMT's public health and environmental risks, including its interference with emission-control systems, [banned MMT's intra-provincial transport and importation](#) in 1997. Given that Canadian provinces have jurisdiction over most environmental matters, such actions are how a national ban of a substance could be enacted in Canada. When the law was being considered, [Ethyl explicitly threatened](#) that it would respond with a NAFTA challenge. MMT is not used in most countries outside Canada. It is [banned by the U.S. Environmental Protection Agency](#) in reformulated gasoline. Making good on its threat, Ethyl initiated a NAFTA claim against the toxics ban, [arguing that it constituted a NAFTA-forbidden "indirect" expropriation of its assets](#).

Though Canada argued that Ethyl did not have standing under NAFTA to bring the challenge, a [NAFTA tribunal rejected Canada's objections](#) in a June 1998 jurisdictional decision that paved the way for a ruling on the substance of the case. Less than a month after losing the jurisdictional ruling, the Canadian government announced that it would settle with Ethyl. The [terms of that settlement](#) required the government to pay the firm \$13 million in damages and legal fees, post advertising saying MMT was safe, and reverse the ban on MMT. As a result, today Canada [depends largely on voluntary restrictions](#) to reduce the presence of MMT in gas.