#TruthInTrade

NAFTA – Exposing Our Communities to Toxic Chemicals

Background

Trade deals negotiated behind closed doors, such as the North American Free Trade Agreement (NAFTA), have allowed international firms to overturn domestic environmental regulations and other laws that protect public health and safety.

Ethyl v Canada

Ethyl, a U.S. chemical company, launched a NAFTA investor-state case over the Canadian ban of MMT, a toxic gasoline additive used to improve engine performance. Canadian legislators, concerned about the public health and environmental risk of MMT emissions, and about MMT's interference with emission-control systems, banned MMT's import and interprovincial transport in 1997. MMT is not used in most countries outside Canada, and is banned by the U.S. Environmental Protection Agency in reformulated gasoline. Ethyl claimed the Canadian import ban on MMT violated various provisions of NAFTA and sued Canada for $251 million.

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, paying $13 million in damages and legal fees. Unusually, the Canadian government simultaneously announced it would reverse the ban on MMT – only recently passed to protect its citizens – allowing the toxin to reenter Canada's gasoline supply.