



Dow sues Canadian government over Que.'s pesticide ban

BY JULIET O'NEILL, CANWEST NEWS SERVICE APRIL 9, 2009



A display of pesticides that will soon be banned in Ontario sits on display at the Home Hardware store in Tecumseh, near Windsor, Ont., in March. U.S. Dow AgroSciences has gone ahead with a threatened suit against the federal government under NAFTA, seeking a repeal of a similar ban in Quebec on lawn pesticides containing 2,4-D and at least \$2 million in damages.

Photograph by: Tyler Brownbridge, Windsor Star

OTTAWA — U.S. Dow AgroSciences has gone ahead with a threatened suit against the federal government under the North American Free Trade Agreement, seeking a repeal of Quebec's ban on lawn pesticides containing 2,4-D and at least \$2 million in damages.

William Amos, a lawyer for environmental organizations intervening in the case, urged the parties Thursday to move forward quickly in choosing the three-member NAFTA arbitration panel that will decide the case. It is urgent, he said, to remove a cloud over other provinces considering pesticide bans.

Dow's claim asserts the ban is tantamount to "expropriation" of Dow investments, and accuses Canada of breaching "basic due process, transparency, good faith and natural justice."

Dow says Quebec's ban is not based on science, and should have been reviewed after the federal Health Canada pest-management regulatory agency declared 2,4-D safe if used as directed.

It accuses Canada of breaching its obligations under Chapter 11 of NAFTA, and seeks damages "without limitation" covering loss of sales, profits, goodwill, investment and other costs related to the products.

"We don't want the government or Dow to sit on this," Amos said in an interview. "Let's have an open, transparent debate."

Amos is staff lawyer for the University of Ottawa's Ecojustice Environmental Law Clinic. He will represent the David Suzuki Foundation and Equiterre, a Quebec environmental group, as interveners in the case.

Last month, Trade Minister Stockwell Day vowed a "vigorous defence" of Quebec's ban, and asserted that NAFTA preserves Canada's ability to regulate in the public interest to protect health and the environment. Quebec is declining comment, leaving the matter up to Ottawa.

The suit comes on the eve of Ontario introducing similar pesticide controls that put 2,4-D on a list of banned products.

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