



Published on Wednesday, January 30, 2002 by the [Inter Press Service](#)

**NAFTA**

## Environmentalists Urge Pesticide Fight

by Danielle Knight

WASHINGTON - Environmentalists are urging the Canadian government to fight a lawsuit filed against it by a major U.S. chemical company under the North American Free Trade Agreement (NAFTA).

Activists say they worry Canada will cave in to Crompton Corporation, which has filed suit against the Canadian government for banning the pesticide lindane. Officials in Ottawa have capitulated in similar challenges filed under NAFTA's investment protection provisions, known as Chapter 11, they note.

“No government should be forced to import such a toxin.”

"Canada must not allow foreign investors to dictate through Chapter 11 the approach it takes to regulating substances as dangerous as lindane," environmental advocacy groups in Canada, Europe, Mexico, and the United States say in a letter to Canadian authorities.

**Kristin Schafer**  
[Pesticide Action Network North America](#)

Crompton notified Canadian authorities in November that it would pursue a 100 million dollar NAFTA claim against Canada for de-registering lindane for use on Canadian canola crops.

Crompton charges that by banning the pesticide and "failing to live up to its undertaking to conduct a review of lindane, the government has taken measures tantamount to expropriation."

"There is no scientific basis for banning the use of lindane product for canola seeds as there is no conclusive scientific evidence that such action is necessary to protect human health or the environment," its complaint states.

Marc Richard, spokesperson for the Canadian Pesticide Management Regulatory Agency, says the sides are discussing the issue. Under NAFTA, Crompton and Ottawa have 90 days to work out a compromise before the company can move the dispute process further.

Canada, explains Richard, did not ban the use of lindane for canola directly because of health or environmental concerns. Rather, it de-registered the use of lindane for canola seed after it became a trade dispute with the United States, which forbids the use of the pesticide on canola.

In 1998, Washington warned Ottawa it would block imports of crops treated with pesticides not allowed for use in the United States. US canola growers, prevented by US law from using the chemical to treat their seed, had complained that the higher cost of lindane substitutes gave Canadian growers an unfair competitive advantage.

In response, Canadian authorities, canola growers, and manufacturers of lindane - including Crompton unit Uniroyal Chemical - had agreed to phase out lindane, says Richard.

While Crompton argues that lindane is safe, the activist [Pesticide Action Network](#) says lindane is highly toxic and lists the pesticide as one of the "dirty dozen" pesticides.

Lindane is considered a persistent organic pollutant, or POP, because it travels long distances and breaks down extremely slowly. The documented health effects of lindane include dizziness, seizures, nervous system damage, immune system damage, and birth defects.

In Europe, all agricultural uses of lindane have been banned. The US Environmental Protection Agency has called the pesticide a possible human carcinogen and is currently completing a scientific review of the chemical.

"No government should be forced to import such a toxin," says Kristin Schafer of Pesticide Action Network North America.

The Stockholm Convention on POPs, adopted and signed by 90 countries in May, does not yet cover lindane but discussions are under way to ban the pesticide.

The letter to Canadian authorities from several dozen groups including Greenpeace and the Washington-based Center for International Environmental Law, calls on the government to neither pay the money demanded by Crompton nor settle the lawsuit.

"Canada must demonstrate that it will not let narrow corporate interests dictate the health of its citizens," says Angela Rickman, with Sierra Club Canada.

In July 1998, Ottawa withdrew its ban on the gasoline additive MMT and paid 13 million dollars in damages to the U.S.-based Ethyl Corporation, which had brought a NAFTA challenge against the prohibition.

This time around, the environmental groups also are calling for action to limit the scope of Chapter 11, saying its provisions have been used as a "key offensive strategic tool" for corporations to fight laws that interfere with their ability to make a profit through exports.

"Ambiguities in the provisions of Chapter 11 have been used to tip the balance of the investor-state mechanism against the ability of governments to regulate in the public interest," says their letter.

Corporations in each of the three NAFTA countries - Canada, Mexico, and the United States - have filed at least seven other cases challenging domestic environmental and health policies.

In 2000, a NAFTA tribunal ruled that Mexico violated the trade agreement and ordered the government to pay 16.7 million dollars to the U.S.-based Metalclad corporation. The company had wanted to open a hazardous waste treatment and disposal site in central Mexico but local government said the project violated environmental protection laws.

Another pending claim involves the Canadian-based company Methanex, which filed against the United States claiming that the state of California's decision to phase out the use of its gasoline additive, MTBE, cost the company 970 million dollars.

California's governor, Gray Davis, ordered the use of MTBE halted by the end of this year after studies revealed unusually high - and potentially harmful - levels of MTBE in California's drinking water.

"NAFTA Parties should reopen and renegotiate the provisions of Chapter 11," says the letter, "to ensure the ability of national and sub-national governments to protect their citizens and the environment from toxic substances."

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