



# Protect America Don't Trade Her Away

America is fighting terrorism to defend the land we all love. But U.S. trade policies are putting our land, air, and water at risk. The North American Free Trade Agreement (NAFTA) gives foreign corporations the power to discourage environmental protection by suing U.S. taxpayers for billions if our environmental laws interfere with corporate profits.

Soon Congress will vote on "fast track" trade legislation, which would deprive Congress of the right to fix trade deals even when they threaten the environment. Fast track would be used to expand corporate lawsuit provisions that put our environment at risk. According to a Tufts University study, NAFTA-style corporate lawsuits could eventually cost US taxpayers up to \$32 billion per year.

## **Dirty Water: the Price of "Free" Trade**

Today, many trade agreements promote global commerce by undercutting environmental, health, and safety standards. In California, Gov. Gray Davis decided to phase out the gasoline additive MTBE because the chemical, suspected of causing cancer, was leaking from gas stations into ground water and wells. Many homeowners first learned about MTBE when their water began to smell and taste like turpentine.

In response to the MTBE phase out, the Methanex Corporation, a Canadian company that makes the methanol that goes into MTBE, used a little-known NAFTA provision to sue the United States government for \$1 billion. No US Court would have allowed such a claim under US law, but a secretive NAFTA tribunal is now considering Methanex's charge that California unfairly hurt the company's profits in its effort to protect the health of its citizens.

A dozen states have already begun phasing out MTBE. If Methanex wins its NAFTA lawsuit, all of these initiatives by state governments to ensure safe drinking water will be at risk.

## **A Growing Threat to Environmental Protection**

The Methanex case is just the latest in a growing string of NAFTA corporate lawsuits that challenge the power of governments to act in the public interest. Here are other examples:

- A NAFTA tribunal has ordered Mexico to pay \$16 million in damages after a local government there denied a permit to a US company to operate a toxic waste dump. The local community says the dump threatens its water supply, yet the NAFTA tribunal ignored the community's rights under the Mexican Constitution to refuse a permit for the dump. If this precedent takes hold, NAFTA tribunals could soon be running roughshod over the constitutional rights of American state and local governments;

**Protect America, Don't Trade Her Away**

- A Canadian funeral home chain has sued for \$750 million after a jury in Mississippi found the company guilty of defrauding customers. If this company wins, the precedent could threaten our domestic system of civil courts, essential to citizen enforcement of our clean air and clean water laws; and
- Canada was ordered to pay \$50 million to a US toxic waste handler after the government refused to export hazardous PCBs for incineration in the company's Ohio facility. The NAFTA tribunal in this case simply ignored the fact that Canada was attempting to comply with an international treaty which prohibits transboundary shipment of hazardous wastes.

Originally, NAFTA's investor rules were intended to protect US investors in other countries from the seizure of their assets by host governments. In practice, the rules expose virtually all domestic environmental laws -- pollution controls, smart growth programs, and land conservation rules -- as potential NAFTA violations.

If fast track is passed without substantial changes, it could be used to expand NAFTA-style investor rules throughout the Western Hemisphere and eventually the entire world. Environmental progress could then grind to a halt as taxpayers at home and abroad are forced to pay billions of dollars in damage claims to global corporations.

### **In the Senate, Support the Kerry Amendment**

Senator John Kerry (D-MA) has a better idea. He has proposed an amendment to fast track legislation in the Senate that would prevent US trade negotiators from giving greater rights to foreign investors than are provided under US law. The Sierra Club urges passage of the Kerry Amendment.

### **In the House, Oppose Fast Track**

But the best way to truly stop expansion of NAFTA's investor rules is to get rid of fast track so that Congress can amend any trade deals that might include such risky provisions. Last December, the House passed fast track by just one vote, 214-215. We may have a second chance to defeat fast track in the House later this spring.

After the Senate votes on fast track, the bill will move to a House-Senate conference to iron out differences between the two bills. Then the full House and the full Senate must vote again on the fast track "conference report." ***We can beat fast track in the House, if we pick up just one more vote than we had in December.***

### **Take Action**

- Call or fax your Senators. (Surface mail is still slow reaching Congress due to the anthrax scare.) Urge them to support the Kerry Amendment to the fast-track bill.
- Call or fax your US Representatives. Urge them to oppose fast track.
- Join the Sierra Club's Responsible Trade network to obtain weekly action updates. Contact [dan.seligman@sierraclub.org](mailto:dan.seligman@sierraclub.org)

**Protect America, Don't Trade Her Away**