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## Ethyl sues Ottawa for US\$200M over MMT ban

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The U.S.-based maker of a gasoline additive slated to be banned in Canada is seeking at least US\$200 million in damages from the federal government.

Ethyl Corp. of Richmond, Va., said yesterday it would file a claim under a little-used section of the North American Free Trade Agreement that allows companies to take direct action against governments in trade and investment disputes.

The NAFTA claim puts another obstacle in the path of Ottawa's already prolonged and controversial effort to outlaw the import and interprovincial trade of MMT, a manganese-based fuel additive made only by Ethyl.

The legislation — introduced last year by Sheila Copps, then environment minister, and now championed by her successor in the portfolio, Sergio Marchi — has been fought every step of the way by Ethyl and the oil refining sector that uses MMT.

The government is siding with automobile manufacturers. They complain that MMT interferes with the sensitive new emissions systems on cars and trucks. But Ethyl and the refiners say MMT is a benign, low-cost octane-booster, part of the standard Canadian recipe for gasoline since 1977.

Marchi is now pushing to have the bill passed into law soon after the House of Commons returns next week from its summer break. Ethyl's announcement sends Liberals a message that going ahead could come at a steep price.

"It is probably the most audacious piece of legislation to violate NAFTA that has come before the Canadian Parliament," Barry Appleton, Ethyl's lawyer on the case, told a news conference.

Chris Hicks, Ethyl's vice-president for government relations, said that as the only manufacturer of MMT, the company views the import ban as a pointed attack on its business — an assault "tantamount to expropriation."

He said Ottawa's policy has already damaged Ethyl's reputation and hindered the company's strategy of introducing MMT in other markets. (The additive became legal in the U.S. only last year, after Ethyl won a court case against the U.S. Environmental Protection Agency.)

"There is damage to sales abroad, where other governments that were trying to get MMT approved are saying: 'Wait a minute, what's Canada doing? We're not going to consider it until we see what's going on in Canada,'" Hicks said.

The US\$200-million notice of intent filed by Ethyl is based only on losses to date, Hicks said. The figure will be raised if Ottawa proceeds with the ban.

Marchi declined a request to be interviewed on Ethyl's latest move.

But it could not have caught him entirely by surprise. In a letter reported on by The Post last March, International Trade Minister Art Eggleton urged Marchi not to risk a

NAFTA challenge by going ahead with the MMT ban.

Ethyl's opponents in the auto sector were more forthcoming. The NAFTA claim is "a bullying tactic," said Mark Nantais, president of the Motor Vehicle Manufacturers' Association. "It's an attempt [by Ethyl] to intimidate the cabinet of Canada."

The Canadian Petroleum Products Institute, representing refiners, said the government can avoid the confrontation with Ethyl by launching its own scientific evaluation of MMT's effect on automobile exhaust systems. If independent tests prove MMT causes problems, refiners will voluntarily stop using the additive, freeing Ottawa from any risk of a NAFTA fight, said CPPI president Alain Perez.

The notice of intent filed yesterday by Ethyl begins a 90-day consultation period. If the matter is not settled in that period, a formal claim would be submitted, leading to resolution by a NAFTA dispute panel.