

## International

### Ethyl Corporation v. Canada:

In the first claim for compensation arising out of the North American Free Trade Agreement (NAFTA), Ethyl Corporation, a producer of fuel and lubricant additives, is seeking at least \$250 million in damages from Canada in a claim filed on April 14 with the Canadian Department of Justice. Ethyl filed the complaint against the Canadian government in response to that country's ban on the import and distribution of MMT, a fuel additive manufactured by Ethyl.

Richmond-based Ethyl is relying on general counsel **Steven Mayer** and vice-president for government relations **Christopher Hicks**. The company has also tapped **Alan Alexandroff**, **Barry Appleton**, **David Kerzner**, and **Anthony Macri** of New York's **APPLETON & ASSOCIATES**, which is based in New York and Toronto. Also assisting is **Andreas Lowenfeld** of New York University School of Law, a specialist in international law. According to Hicks, Ethyl turned to Appleton because of his expertise in international law.

MMT, or methycyclopentadienyl manganese tricarbonyl, is a fuel additive that increases the octane level in gasoline while decreasing nitrogen oxide levels. Its use is legal in the United States, but on April 10 the Canadian Parliament voted to ban both the import and interprovincial transport of foreign MMT. This is a violation of Ethyl's investment rights, the company's complaint alleges, since the ban "treats American companies worse" than Canadian ones and will completely eradicate Ethyl's Canadian business.

According to Frank Vena, chief of the transportations systems division at Environment Canada, the Canadian federal environmental agency, the ban grew out

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of a concern that MMT may interfere with the on-board diagnostic systems in an automobile whose function is to monitor the car's pollutant emissions. This interference could lead to a higher level of pollutants exuded by motor vehicles, Vena says.

Under NAFTA, American companies can now file suit directly with Canada or Mexico, instead of relying on the U.S. government to sue. The matter will be arbitrated in Ottawa by a tribunal of three panelists, one chosen by each of the respective parties in the suit and one chosen by mutual agreement. Since the arbitration process calls for a tribunal to be constituted in no more than 120 days, the matter may be resolved before the end of the year, says Appleton.

According to Department of Foreign Affairs assistant director of media relations **Charles Larabie**, the Canadian government declines to name its counsel, saying only that attorneys from the Departments of Foreign Affairs and Justice will assist in the resolution of the dispute. Larabie also declined to comment on the case.

—AMY SCHROEDER