

# Take Charge!

A National Day of Action in support of a Canadian Energy Strategy

## Oil companies sue Canada

Prime Minister Stephen Harper likes to call Canada an “energy superpower.” If that is true, we are a strange superpower indeed. What kind of energy superpower has no policy to direct and develop its own resources, has to import half of its own energy needs, cannot guarantee resource access to its own citizens, and tolerates environmental disasters on its own territory while the energy sector rakes in record profits?

For nearly 20 years, Canada has lived with free trade agreements and free market rules that are used to ensure that our energy resources keep flowing out of the country with little or no direction from government. As one of the coldest countries on earth, Canada’s energy security is decided by the whims of the United States, the markets and the big oil companies. This plan does not make us an energy superpower; it turns us into a gas jockey.

### A case in point:

Two U.S. oil companies are suing Canada for \$60 million under NAFTA’s Chapter 11, because the Newfoundland government is demanding that part of their research and development (R&D) budget be spent in the province. Newfoundland has guidelines that would force Mobil Investments and Murphy Oil Corporation to spend a fixed percentage of their revenues on research, and create a development fund or reserve fund for unspent amounts.

The companies argue that this amounts to a “performance requirement,” which is essentially an obligation to purchase goods produced or services provided by the province.

NAFTA allows certain performance requirements if they were in place prior to 1994. However, these requirements were voluntary. It was left to the oil companies to decide how much money to spend and when to spend it on R&D in the province. Newfoundland government is now demanding – not unreasonably – that R&D spending no longer be voluntary, but an enforced obligation.

### Not the courts – a NAFTA tribunal

When the story was first reported in the media last August, Newfoundland Premier Danny Williams said that he would “fight this in court.” While his willingness to defend his province was admirable, he was mistaken about the venue

for the fight. Most people would expect that if a foreign company has an issue with the rules and laws of a province or a country, they would simply take their grievance to the courts. However, under NAFTA’s Chapter 11, foreign investors sue governments over public measures like environmental protection, public health protection and the delivery of public services if they interfere with their profits. These cases are not adjudicated by Canadian courts, but by secretive trade tribunals. This does not give any consideration to the country’s laws, commitments to social programs, and environmental, labour or human rights. By giving foreign investors the right to claim damages when government measures interfere with profits, NAFTA has empowered private tribunals to resolve public policy disputes. The result is that foreign companies may use NAFTA freely to challenge public policies and laws they oppose.

As the Exxon case shows, the same secretive process can be used to undermine provincial or local governments that try to maximize the benefits of economic development for their citizens, the true owners of the natural resources. Exxon recorded profits of \$39.5 billion in 2006 and 36.13 billion in 2005. Canadians should have the right to force these companies to spend a few million on research in Newfoundland before taking their Hibernia profits back to Houston.

### Take action!

Contact Prime Minister Stephen Harper and demand a National Energy Strategy that puts people and the environment ahead of corporate interests.

Office of the Prime Minister  
80 Wellington Street  
Ottawa  
K1A 0A2

E-mail: [pm@pm.gc.ca](mailto:pm@pm.gc.ca)  
Fax: 613-941-6900

For more information about the Council of Canadians’ energy campaign, visit [www.canadians.org](http://www.canadians.org) or call us at 1-800-387-7177.