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Keeping their head in the sands
Canada's EU Fuel Quality Directive lobby diary

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Keeping their head in the sands

*Tar sands has become a “totemic issue, hitting directly on Brand Canada”.*¹

Executive summary

In January 2013, two Albertan government Ministers, Cal Dallas and Diana McQueen, began separate lobby tours of Europe, visiting eleven EU countries between them. McQueen, who is the Albertan Minister of Environment and Sustainable Development, also held a series of meetings at the European Parliament and Commission in Brussels, including with key DGs like Climate Action.

The official aim of the tours was to “maintain and enhance market access”, which is essentially political code for making sure the EU’s flagship climate legislation, the Fuel Quality Directive (FQD), does not in any way discriminate against Canada’s dirty tar sands. The two Ministers handed out fliers arguing that Canada, a country that has never ratified the Kyoto Protocol and which is exploiting the dirty tar sands, was somehow showing “global leadership in the fight against climate change.”²

Nothing could be further from the truth. The latest lobbying is nothing new; more it is a continuation of a multi-million dollar public relations campaign by the Canadians to scupper the FQD. Alberta’s International and Intergovernmental Relations Minister, Cal Dallas, argues that the Canadians have always “supported the intent of the FQD”.³ This is also political doublespeak.

The Canadians and Albertans only support the Directive on their own terms, and if they get what they want: which is to make sure that tar sands oil is not discriminated against. Over the last three years the Canadians have been lobbying, bullying and threatening the EU to make sure they get their way. The latest visits are a continuation of that strategy.

In July 2011, Friends of the Earth Europe published a report entitled *Dirty Lobby Diary* which documented in detail the efforts by the Canadians to undermine the FQD. The report revealed that there had been a huge number of lobbying events - over 110 - organised by the Canadians on tar sands and the FQD since September 2009 until the summer of 2011.⁴

This briefing paper revisits the subject a year and a half later and exposes how this Canadian lobbying effort continues unabated, which has resulted in the European Commission dragging its feet on the issue.

The intense lobbying has forced the Commission to undertake an Impact Assessment on its proposed Directive and the delay has been so great that a decision by the European Council will not be taken until later this year. So the Canadian lobbying effort will doggedly continue, ignoring political and climate-related developments:

- In 2012 weather related disasters once again made the headlines. Even the conservative *Financial Times* noted in an editorial, entitled *Worsening Weather*. “There seems to have been not a single moment of 2012 when some part of the world was not afflicted by extreme weather: England’s wettest year on record; Europe’s

worst cold snap in decades, flooding and landslides in Brazil, Bangladesh and the Philippines, the smallest Arctic summer ice cover; record-breaking heatwaves in Australia and the US droughts in North and South America.⁵ That is not forgetting Hurricane Sandy in the US and more record heat in Australia in January 2013.

- In January 2013, in his second inauguration speech, President Obama signalled that climate change would be a priority, potentially signalling a head-on clash with the Canadians. “We will respond to the threat of climate change, knowing that failure to do so would betray our children and future generations,” said Obama, devoting more of his speech to climate change than any other issue.⁶
- In January 2013, new research by the NGO Oil Change International signalled that the carbon emissions from the tar sands were even greater than previously thought. This is because 15 to 30 per cent of a barrel of tar sands bitumen is converted during the refining process into a coal-like solid fuel called petroleum coke or ‘petcoke’, which is also burnt.⁷ Days later, a report by Greenpeace concluded that the tar sands ranked fifth in the 14 largest carbon intensive projects in the world.⁸
- There is a growing public backlash against the tar sands. The Canadian government has been rocked by protests from Indigenous groups, whose “Idle No More” campaign has garnered national and international support. Its leaders have said they intend to blockade highways going to the tar sands.⁹

Rather than recognise the changing political and scientific reality, the Canadians belligerently continue to have their head firmly in the tar sands, and continue to lobby to achieve their aims.

This is despite the damage to the country’s reputation. Recent documents, released under Freedom of Information, reveal how detrimental the international campaign against the tar sands has become for the Canadians. One document notes that it had become a “totemic issue, hitting directly on Brand Canada”.¹⁰

So desperate are they to get their way, that Alberta’s Premier Alison Redford even took time out from her trip to London for the Olympics to lobby the then Secretary of State for Transport, Justine Greening about the tar sands.¹¹ More recent lobbying by the Canadians has tried to get British Ministers to help “change the language” away from a “negative focus on oil sands” to a more positive one about “Canadian energy production”.¹²

Over the next year, Canada will continue to bully the EU into submission. Friends of the Earth calls on European decision makers to show leadership on this issue and not to give in to Canadian pressure. The Commission needs to ensure that the FQD takes into account the real carbon footprint of tar sands. This implies a specific default value for tar sands as established in the recently published Commission studies.

Background

In December 2008, the EU adopted the revised Fuel Quality Directive (FQD). The intention of the Directive is to reduce the life cycle (“well to wheel”) greenhouse gas emissions from transport fuels, rather than just the tail-pipe carbon dioxide emissions from when the fuel is

used in a vehicle. Under the directive, Article 7A requests that transport fuel suppliers cut the carbon footprint of their products by 6 per cent by 2020 from the 2010 baseline.

In October 2011, the Commission submitted a proposal to enable implementation of Article 7a of FQD to the Fuel Quality Committee, which was voted on 23 February 2012, with a “no opinion vote”. Under pressure from the Canadians and its sympathetic supporters in the EU, such as the UK, the Commission is now undertaking an Impact Assessment, something it had deemed unnecessary before the “extensive” Canadian lobbying.¹³

Canada’s “Most Important Issue” with the EU

The European Commission continues to be the target of aggressive lobbying from Canada and Alberta as well as international oil companies. The importance of the FQD to the Canadians is revealed in the minutes of the Canada-EU Trade and Investment Sub-Committee meeting in December 2011 where Kathleen Mackay, from DFAIT said that the “FQD was Canada’s most important immediate-term issue with the EU”.¹⁴ Canada has been tempting EU officials by arguing that the tar sands could supply Europe with oil for 30 years at current consumption rates.¹⁵

The meetings and lobbying has been targeted at Commissioners, who were already opposed to the original Commission’s proposal, such as from Trade, Enterprise and Energy, as well as even lobbying President Barroso himself. Here is a snapshot of the intense lobbying:

In October 2011, Joe Oliver, Minister of Natural Resources, Canada wrote to the EU Commissioner for Energy, Günther Oettinger attacking the EU’s stance and science. “There is no credible scientific source that differentiates oil sands as a ‘separate feedstock’, which Oliver argued was “unrelated to GHG intensity of the crude”.

Oliver warned that “any policies that impede the free flow of global oil supplies are detrimental to our collective energy security”. Using words identical to those of the tobacco industry fighting plain packaging legislation, he argued that implementation of the current FQD proposal could have significant and “unintended consequences”. Finally, he cautioned that “if unjustified, discriminatory measures to implement the FQD are put in place, Canada will not hesitate to defend its interests”.¹⁶ It was a basic threat.

Replying on Oettinger’s behalf, Connie Hedegaard stressed that of course “studies on the lifecycle GHG intensity of a wide range of fuels have been conducted for the purposes of the FQD”.¹⁷

Ed Fast, the Minister of International Trade in Ottawa lobbied Commissioner for Trade, Karel De Gucht, at the eighth WTO Ministerial meeting in Geneva in December in 2011.¹⁸ David Plunkett, the Canadian Ambassador to the EU also met De Gucht in March 2012. Briefing notes prepared for the Commissioner conceded that “As regards the FQD, no solution exists that satisfies all stakeholders”.¹⁹

But it is not just the sympathetic Commissioners who have been targeted. Connie Hedegaard, seen as the villain by the Canadians in the Commission, has been the subject of severe lobbying and direct threats. In the autumn of 2011, a letter was sent to Hedegaard

threatening WTO action. On the 8 December 2011, David Plunkett, the Canadian Ambassador to the EU, warned Hedegaard that “Canada will not accept oil sands crude being singled out in the Fuel Quality Directive ... I want to again state that Canada will explore every avenue at its disposal to defend its interests, including at the World Trade Organisation”.²⁰ The following day, Plunkett met with officials from DG Trade.²¹

Canada has continued to reject the scientific basis on which the EU has made its decision-making, even though the main report by Adam Brandt was peer-reviewed, and is seen as consistent with other studies.²² At the Canada-EU Trade and Investment Sub-Committee meeting in December 2011, Kathleen Mackay, DFAIT said that “Canada continues to reject as inadequate the EU’s scientific basis for the FQD’s implementing measures”.²³

In March 2012, the Premier of Alberta, Alison Redford, who has called the tar sands, “the lifeblood” of the province’s economy²⁴, wrote directly to President Manuel Barroso to complain that the implementing measures for the FQD contained “significant technical shortcomings”. The FQD, she argued, discriminated “uniquely” against the tar sands.²⁵ Such was the Canadian’s desperation, they were now targeting Europe’s top official. Whilst taking this aggressive stance against the EU, there is evidence of close networking between Redford and British officials. At a meeting in July 2012 with the British Consul in Calgary, Redford complained about how the old “combative” and “uncoordinated” approach in promoting the tar sands had not worked.

She was now encouraging “big business to work alongside civil society to push the pro-tar sands message out. In order to do this, the Canadians had launched COSIA, a new alliance of tar sands producers such as Shell, BP and Suncor to “enable responsible and sustainable growth of Canada’s oil sands”.²⁶

Meanwhile in Brussels, David Plunkett, the Canadian Ambassador to the EU, used the oil industry scaremongering arguments in a letter to Hedegaard in July 2012. Quoting the industry association, Europaia, Plunkett warned that EU refineries might become uneconomic, and warned that, if the FQD was unilaterally adopted by the EU, heavy crude suppliers would “shuffle” to other markets.²⁷ Plunkett was warning about “carbon leakage”, where emission reductions in one region, lead to increases in others.

Days later, Europaia wrote directly to Philip Owen at DG Climate Action reiterating this threat. The FQD, he argued, “will create unnecessary administrative complexity for all EU fuel suppliers and Member States” and was a real “threat to competitiveness of EU refining versus international competitors.”²⁸

EU Officials See Keystone XL as an Export Pipeline for the Tar Sands

In a briefing document for the EU Trade and Investment Sub-Committee, officials from DG Climate noted that although current imports of tar sands crude into the EU were small, these could grow with the Keystone XL pipeline.

They noted that: “Given the increase of tar sand extraction notably in Canada (but also projected increase in Venezuela) and projected increased exports from Canada to the US (which would be even more significant when the envisaged pipeline project goes ahead, through which such fuels would come to the EU), it is clear that this percentage will only increase over the coming years.”²⁹

The Canadian Allies in Lobbying Push

The documents also reveal that Canada has been working with European allies, especially the UK and Dutch to revise the Directive, with the British conceding privately that “there is also a significant lobbying effort on this topic”.³⁰ Other documents detail how the British sought to make sure its negotiating position was “acceptable” to the Canadians.³¹ The Canadians, in turn, appreciate the “openness” of the relationship it has with the UK on the issue.³²

In August 2011, the British thought they had a breakthrough compromise which would have split crudes sources into three broad categories according to their low, medium or high GHG emissions. One British diplomat noted in a dispatch marked “sensitive”: “We do not underestimate the difficulties in establishing a workable solution, and the likelihood that a delay would be needed before any such system could be established”.³³

At least 15 high-level meetings and communications took place in just a couple of months in the autumn of 2011, including Prime Minister David Cameron discussing the issue with his Canadian counterpart Stephen Harper during a visit to Canada. Cameron stated privately the UK wanted “to work with Canada on finding a way forward”. Despite this, the Canadians later rejected the British compromise proposal.³⁴

Joe Oliver, Canada’s Minister of Natural Resources, did however write to Charles Hendry, the then Minister of State for Energy arguing that there needed to be a full impact assessment of the FQD in October 2011: “We understand that the European Commission usually carries out a full impact assessment for any new measure in order to consider all of the implications before bringing it forward”, he wrote. “However, there has been no assessment of the impact of this proposal on the petroleum and refining industries”.³⁵ Oliver knew he was writing to a friend. After the two had met in October 2011, Hendry had promised he would help “progress discussion in Brussels” on the issue.³⁶

The Canadians were not the only ones pushing for an impact assessment. The European Petroleum Industry Association, Europa, was also advised by its lawyers that an impact assessment was necessary.³⁷ The oil giant, BP, has also been lobbying for an Impact Assessment to be undertaken.³⁸

Hendry is not the only active British minister on the subject. In October 2011, Peter Mather from BP wrote to Norman Baker at the Department for Transport, after “bending his ear” at a meeting. He warned Baker of “unintended consequences” of the Directive and said he hoped that member states, such as Britain, would speak out against it.³⁹ Baker replied that his officials were “in contact with BP representatives so that we can gain a fuller understanding of the possible impacts of the proposals.”⁴⁰

Baker was also in contact with the Canadians. Minutes of a meeting between Baker and the Canadian High Commissioner, reveal Baker said the British were determined to find a solution which did “not single out individual countries”, i.e. Canada and the tar sands.⁴¹ Baker adopted the oil industry line by advocating that an impact assessment was necessary, when he wrote to Dutch government colleagues, and the European Commission, in September 2011.⁴²

Shell too has been lobbying. In March 2012, Malcolm Brinded, a member of Shell's board, wrote to Vince Cable, the British Business Secretary, who himself used to work for Shell. Ironically given who he used to work for Cable is now the "contact Minister for Shell" in the Government. Shell raised issues of discrimination and even the "questionable environmental benefits" of the FQD and urged the British Government to fight the proposals.⁴³

On the day that American swimmer Michael Phelps became the most decorated Olympian ever, Alberta's Premier Alison Redford took time out from her trip to London for the Olympics to lobby the then Secretary of State for Transport, Justine Greening. At the meeting Redford tried to undermine the EU's position by highlighting the difference in opinion between EU Commissioners.⁴⁴

More recently, in November 2012, the Canadians have tried to get senior British Ministers to "change the language away from negative focus on oil sands" to a more positive one about "Canadian energy production" and how Canada is an "energy superpower with a large % of renewables".⁴⁵

Some three months later, when the two Albertan Ministers toured Europe's capitals in their fight against the FQD, they did not bother visiting London. They already knew they had the British government onside.

EU Fuel Quality Directive and tar sands development globally

Transport fuels produced from 'unconventional' sources such as tar sands, have particularly high GHG emissions. If oil companies were to report the same GHG values for these, as for fuels produced from conventional sources, then there would be nothing to restrict their use in the EU. The GHG intensity of Europe's fuels would actually increase not decrease. This is why fuels produced from these 'unconventional' types of feedstock need to be assigned specific default values which companies are obliged to use in their reporting.

Friends of the Earth Europe and other civil society organisations from Europe and North America advocate that the FQD must include a specific default value for tar sands as established in the Commission studies.

Tar sands are unconventional fossil fuel feedstock, and fuels produced from them are more GHG intensive than those derived from conventional crude oil. Tar sands need specific GHG values to reflect their higher emissions – just like the other unconventional feedstocks, oil shale, coal to liquids and gas to liquids, for which specific default values are already included in the FQD. The Directive must also ensure robust reporting requirements for companies as an incentive to maximise their GHG emission savings across the supply chain. Production of oil from tar sands is no longer limited to Canada with oil companies investing in development of tar sands around the world.⁴⁶

Time is critical since unconventional oil resources are about to go global. New deposits of tar sands and other unconventional oil have been discovered or are already being exploited in countries such as Venezuela, Madagascar, Congo-Brazzaville, Russia, Jordan, Nigeria and Angola.

One new frontier for tar sands development is Africa, a region already highly vulnerable to the impacts of climate change. Apart from making a mockery of climate protection, tar sands

production in Canada has resulted in serious damage to local communities and the environment, including destruction of the boreal forest and increased pollution that has impacted on the health and livelihoods of First Nations communities. In countries with weaker political and environmental governance frameworks, the consequences of its expansion are likely to be even more devastating.

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