KEEP EUROPE OUT OF THE TAR SANDS

Few European citizens are aware that their governments are in the midst of negotiating an ambitious trade deal that could boost Europe's involvement in the world's most destructive project – the Canadian tar sands.

The deal, if signed, could allow tar sands oil imports into Europe and give dramatic new powers to Europes multinational oil companies. It could trample over Indigenous rights and undermine a range of social and environmental legislation on both sides of the Atlantic.

The negotiations are due to be concluded towards the end of 2011. The Indigenous Environmental Network, the UK Tar Sands Network, and the Council of Canadians have come together to call for the negotiations to be halted until they can be subjected to full public scrutiny and have the many social and environmental threats removed.

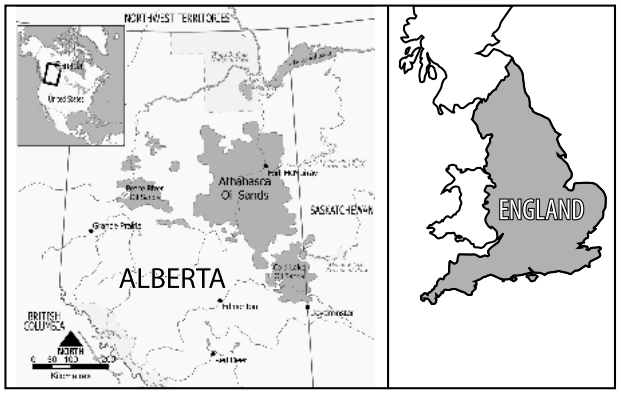
Trading with a climate criminal

Canada's tar sands are attracting global concern and criticism. The tar sands have become one of the last frontiers for "Big Oil," including major European multinationals BP, Total and Shell. The unfolding social and environmental disaster in Alberta demands urgent action, including the respect of Indigenous rights, stronger regulations on carbon emissions, water use and contamination, and more. Yet the proposed Canada-European Union Comprehensive Economic and Trade Agreement (CETA), if completed as planned, threatens to undermine stricter tar sands regulations in Canada and stronger climate policies in Europe. This is confirmed in legal analysis prepared for the Council of Canadians and the Indigenous Environmental Network based on draft CETA text.[1]

Canada's Mordor: The Alberta tar sands

Like the barren land, home to the evil Sauron in J.R.R. Tolkien's fictional Middle Earth, the tar sands are vast and destructive. The bitumen deposits located in an area of Northern Alberta larger than England produce three to five times, per barrel, the carbon emissions of conventional oil, and are the second largest oil deposit in the world.

Extracting oil from the tar sands requires enormous amounts of water. The Athabasca River, one of Alberta's largest watersheds, is already demonstrating signs of stress. Tailings ponds storing massive amounts of toxic water are leaking, contaminating nearby land, water and the wildlife that live there. Huge tracts of boreal forest – a vital carbon sink – are being destroyed.



The deposits of Tar Sands in Alberta cover a surface area larger than England

First Nations communities that live downstream are most directly affected. Their traditional fishing and hunting activities are threatened by contaminated water, land and animals. The Indigenous community of Fort Chipewyan has seen an increase of around 30% in cancer rates. Three legal challenges are in progress over alleged treaty violations.[2]

RESPECT ABORIGINAL and TREATY RIGHTS
Canadian Indigenous Tar Sands Campaign
Indigenous Environmental Network – www.ienearth.org/

UK TAR SANDS NETWORK

THE COUNCIL OF CANADIANS / LE CONSEIL DES CANADIENS

The deal you've never heard of:
Canada-EU free trade talks are in full swing

Faced with stalled trade liberalization talks at the World Trade Organization (WTO), Canada and the EU set out in May 2009 to negotiate a broad free trade agreement. The Comprehensive Economic and Trade Agreement, or CETA, as the deal is often called, would be far more ambitious than the Doha round of negotiations at the WTO, or any other free trade deal the EU or Canada have ever signed.

Like with most next generation free trade deals, CETA's goal is not just to reduce tariffs, which are already low, but to constrain what governments on both sides of the Atlantic can do to set economic, environmental and social policy to suit public needs.

There have been several quiet sets of CETA negotiations so far, all leading up to a pivotal round to take place in Brussels in July 2011. Everything – from how we produce energy, grow food and supply water, to public services and intellectual property rights – is on the table.

Perhaps most controversially it includes an "investment chapter" that would grant Canadian and European companies the right to sue governments when environmental policies interfere with their profits.

Canadian negotiators are also seeking better access to the European market for genetically modified crops, hormone-treated beef and raw resources without having to meet EU standards. In return, European negotiators want better access to Canadian energy and raw resources, and they hope to privatize more energy, infrastructure and water projects in Canada. The deal is due to be concluded towards the end of 2011.[3]

Getting tar sands into Europe:
Canada uses CETA to undermine EU Climate Policy

Canada has already used CETA talks as an opportunity to lobby against action in the EU that would keep tar sands oil out of Europe. The EU has been negotiating a "Fuel Quality Directive" (FQD), aimed at encouraging the use of low carbon energy products and discouraging the use of high-emission crude oil. In its original form the FQD would have prevented fuels with a high carbon content from being used in Europe – an effective ban on tar sands. But the initial draft has been significantly weakened following Canadian lobbying, and all references to the tar sands have been removed until after CETA talks conclude.[4]

Canada was the only non-EU Member State that participated in the FQD consultation.[5] Like Canada's vigorous lobbying against the Californian Low Carbon Fuel Standard, "trade barriers" are central to Canada's thinly veiled threats. Efforts include a letter from Ross Hornby, Canada's Ambassador to the EU, to the EU's Environment Directorate arguing that the FQD would create "a large administrative burden and prohibitive costs." Hornby has also suggests the EU's environmental proposals "could potentially distort trade between Canada and the EU."[6]

Alberta's Environment Minister Rob Renner has stated that Canada is seeking to ward off a precedent that other countries might follow. While tar sands exports to the EU are currently negligible, recent research by Greenpeace UK confirms that tar sands based fuel does enter Europe through diesel exports from the Gulf of Mexico.[7] Planned infrastructure developments along with growing investment interest and a diesel fuel deficit in Europe threatens to increase this level.

These lobbying efforts appear to be having an influence. A recent proposal for the FQD assigns a single value for emissions from all transport fuels extracted from oil, helping to mask carbon-intensive crude like the tar sands. Similarly, a recent October draft of CETA text would establish a typical trade in goods regime that refuses countries the freedom to discriminate between more or less carbon-intensive versions of the same product.

This is totally counter to an EU Parliament statement on trade and climate, that "calls urgently for a reform of the WTO to enable products to be distinguished according to their production and processing methods."[8]

Giving more power to European oil giants:
CETA would put profit ahead of people and the environment

CETA could also encourage and then lock-in investment in the tar sands by European energy firms, threatening effective future climate action. The proposed investment rules in CETA already exist in the North American Free Trade Agreement (NAFTA), where they have been used extensively by U.S. firms to challenge environmental and resource-related policy in Canada. Canadian firms have also used these tools in other bilateral trade deals to attack environmental and mining-related decisions by foreign governments.

Several EU-based oil companies including Shell, BP and Total already have major investments in the tar sands and would benefit from the proposed CETA investment rules. Under these rules, any attempt by a Canadian government to regulate the extent or pace of tar sands development by EU-based companies would be vulnerable to challenge. Environmental or conservation measures such as cutbacks in the enormous amount of water used for production that directly or indirectly affect current or future profitability are open to challenge.

Disputes would be decided by unelected and unaccountable international arbitration panels. Since similar NAFTA investment rules came into force, over half of the complaints lodged challenge environmental laws, and the pattern of rulings is not in favour of the environment.

The "chilling effect" alone of this investment protection mechanism will be enough to discourage new environmental policy, a fact recognized in a draft sustainability impact assessment of the agreement.[9]

Riding roughshod over Indigenous rights:
CETA could infringe on First Nations' treaties

Despite the many concerns over the scale and pace of tar sands developments being expressed by local First Nations, the governments of Alberta and Canada aren't listening. The area of tar sands extraction is under the jurisdiction of treaties that are supposed to ensure that lands of local First Nations should not be taken away from them by massive uncontrolled development that threatens their culture and traditional way of life. But this is exactly what has happened. As a result, several First Nations are currently in direct conflict with both provincial and federal governments over Aboriginal and Treaty rights and title – including through legal challenges to tar sands extraction projects.

CETA threatens to further undermine Indigenous rights in Canada. While treaty rights are recognized in theory in most trade agreements, the extent to which CETA will lead to an expansion of extractive activities by European firms in Canada while giving these companies strong investment protections means that in practice these rights will only be further undermined.

Trade trumps everything:
CETA threatens to override social and environmental policy

Trade agreements should not be allowed to override social and environmental legislation. But this is exactly what CETA threatens to do.

The European Parliament recently passed a statement on trade and climate policy which "stresses that the EU's trade policies... are a means to an end and not an end in themselves, and that these should be consistent with its objectives to combat climate change and should anticipate the conclusion of an ambitious climate agreement."[10]

The EU Parliament insists in its statement that "obligations and objectives under Multilateral Environmental Agreements, such as the UN Framework Convention on Climate Change, and other UN institutions (FAO, ILO, IMO) must take precedence over the narrow interpretation of trade rules." But given recent Canadian efforts to block a binding international climate deal, these priorities are undermined by CETA text that would give the Canadian government a greater say in regulations in the EU.[11]

In the hands of a more environmental steward this might not seem such a bad thing. But the Canadian government has already proved its willingness to use trade tools to undermine effective climate policy abroad.

Groups protest outside the CETA talks to voice concerns about tar sands - the privatisation of public services, water, agriculture, corporate power and democracy.

What should happen now?

The CETA negotiations should be halted immediately until the following have been addressed:

1. Ensure public scrutiny and consultation

   The European Commission and EU member states should be transparent with the public on the scope of the CETA negotiations and provide for meaningful input on how or whether to proceed with the deal.

2. Keep tar sands oil out of Europe

   The EU should ensure that Europe does not become a major market for tar sands oil by moving ahead with carbon intensity caps in the Fuel Quality Directive, regardless of the Canadian government's position.

3. No new rights for corporations

   Under no circumstances should CETA contain investment protections that allow Canadian and European corporations to take governments before unaccountable trade tribunals to settle disputes over public policy behind closed doors. The Canadian and European Union legal systems should handle investment disputes in an open and accountable way.

4. Social and environmental laws come first

   Investment and other economic protections in CETA must take a back seat to climate and environmental considerations. The widest possible space must be given to governments to create progressive environmental, economic and social policy without fear of infringing strict pro-corporate trade rules.

5. Get European companies out

   European oil and gas companies must disinvest from the tar sands as part of an immediate global transition from carbon-intensive to renewable sources of energy

6. Respect Indigenous rights

   CETA must comply with the standards on Indigenous rights as defined by the UN Declaration on the Rights of Indigenous Peoples.

Published by:

UK Tar Sands Network
www.no-tar-sands.org

Indigenous Environmental Network
www.ienearth.org/tarsands.html

Council of Canadians
www.canadians.org

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9 See note 1.

10 See note 8.

11 According to the Canadian Environmental Law Association, the CETA text on "regulatory cooperation" calls for further harmonization of regulatory measures and implies a restraint on one jurisdiction's choice to proceed with more progressive and protective measures if the other is not so proceeding. Canada would be guaranteed long consultations on new European environmental regulations with the chance to challenge proposed new rules before they become law.

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