

Canadian Lobbying Against the EU FQD: Getting the Facts Straight

The Albertan and Canadian governments have been engaged in a sustained lobbying effort to challenge the inclusion of a specific value for bitumen (also referred to as tar sands and oil sands) in the European Commission's proposal for the European Union Fuel Quality Directive (FQD). This effort is part of a 'Pan European Advocacy Strategy' that has been developed jointly with 'like-minded allies' including industries operating in the tar sands. This document aims to clarify some of the arguments and misconceptions that this lobby effort has been using. The climate crisis is a growing threat and global leadership through policies such as the FQD must be recognized as necessary and urgent. The Canadian Government's efforts to undermine the FQD and protect the short term interests of oil companies is unfortunately consistent with the abdication of their commitments to do our fair share to avoid dangerous global climate change. It also puts the interests of polluters ahead of First Nations and other impacted communities as well as precious ecosystems including the world's last intact boreal forest.

The EU FQD is targeting a number of carbon intensive feedstock – not Canadian tar sands.

The EU FQD is not targeting Canadian tar sands, it is targeting bitumen produced anywhere in the world. The Directive treats different fossil fuel feedstock according to their average carbon intensity. Tar sands are a different source of fuel than conventional oil and their average carbon intensity is higher than that of conventional oils. The Directive may later evolve to the point where a differentiation can be made between the emissions of different production methods for conventional oil – but what is clear is the need to act to reduce emissions now. What better way than to start with the sources where the average differences are the highest. Besides bitumen produced from tar sands, other sources included are gas to liquid, coal to liquids, and shale oil. There is also a clause in the Directive that allows producers to apply for a lower value for their crude if they can prove that emissions are lower than the value set for bitumen. This both allows for producers to benefit from cleaner extraction processes as well as incentivizes producers to adopt more efficient processes.

Tar sands are a carbon intensive crude.

Lobbying efforts have typically minimized the carbon intensity of producing bitumen from the Canadian tar sands. Studies by IHS-Cambridge and Jacobs Consultancy and Life Cycle Associates which find Canadian tar sands closer to the emissions of conventional oil are often referred to. These studies have been criticized for a serious lack of transparency regarding details and important sources of emissions were not considered.¹ The peer-reviewed study by a Stanford University professor Adam Brandt financed by the European Commission lends evidence to the carbon intensity of tar sands.² This report found tar sands are 23 percent more greenhouse gas (GHG) intensive than the average for conventional crude currently used in the EU. A recent assessment of 13 scientific studies found tar sands fuels to be 18 to 49 per cent more GHG intensive than conventional oil consumed in the EU.³

The tar sands, an unconventional source of oil, are more GHG intensive because they are a mixture of sand, clay, water and a dense and extremely viscous form of petroleum referred to as bitumen. Large

quantities of energy are required to extract the bitumen, leading to substantially more emissions than conventional oils that don't require as energy intensive extraction processes. On average, the GHG emissions from tar sands extraction and upgrading are 3.2 to 4.5 times as intensive per barrel than conventional crude oil produced in Canada and the U.S.⁴ Stating that tar sands are 1/1000 of global GHG emissions is simply using 'scale' to minimize the challenge of tar sands emissions when in fact, this scale of emissions from the extraction of one resource is significant. The tar sands have been called the largest industrial project on the planet and they are projected to account for over 100% of the growth in Canada's emissions by 2020. The province of Alberta has per capita emissions of 72 tonnes of CO₂ per year, the highest in the world.⁵⁶ The tar sands have been referred to as a ticking carbon bomb by a chief NASA scientist James Hansen, who has also said that their continued exploitation would mean, 'game over for the climate'.⁷

GHG intensity of tar sands: the full picture.

There was a reduction in GHG intensity of tar sands crude between 1990 and 2008 but emphasizing this misses the fuller picture. Reduction has levelled off in recent years and was primarily the result of one-time advances, while new technologies may take over a decade to be viable.⁸ The growing shift away from strip mining towards a technique referred to as in situ⁹ is also leading to increased GHGs and predictions that the GHG intensity of tar sands is now on the rise. The reality is that tar sands are already Canada's fastest growing source of GHG emissions and, with plans for significant expansion underway, emissions are predicted to triple by 2020.

There are no federal regulations on the country's fastest growing source of greenhouse gas pollution.

Despite a series of plans and promises, the Canadian government does not have a single policy in place to regulate greenhouse gas emissions from the tar sands. Canada has failed to address its soaring greenhouse gas emissions, and has abdicated its international commitment to do its fair share to deal with the global climate crises by abandoning the Kyoto Protocol. This is directly linked to their intentions to continue unfettered growth in the tar sands.

Regarding the impacts of the tar sands on ecosystems and communities in Alberta, Canada's own federal Environmental Commissioner recently argued that the tar sands are seriously lacking regulation: "decisions about oil sands projects have been based on incomplete, poor or non-existent environmental information that has, in turn, led to poorly informed decisions."¹⁰ The province of Alberta has sustained heavy criticism for poor and inadequate monitoring from the government's own agencies as well as academics, scientists, First Nations, and other civil society organizations.

The tar sands are not ethical oil.

There is simply no such thing as ethical oil. Climate change is already causing more extreme fires and weather events, melting glaciers and ice caps, floods and more. Even the International Energy Agency's recent report recognizes we are on a path to catastrophic climate change with current pledges for action on climate change setting us on track to at least a 3.5 degree rise in global temperature.¹¹ Ongoing reliance of fossil fuels, particularly carbon intensive unconventional oil like the tar sands, is unethical.

Many First Nations in Northern Alberta and British Columbia are concerned about the elevated rates of cancer in local communities downstream from the tar sands. In one case, Fort Chipewyan community members have elevated cancer rates 30% above Alberta's general population. Local communities believe if the tar sands continue to expand it will be at great detriment to their health.¹²

The EU FQD not a trade barrier.

This has emerged as both a concern that a case could be brought forward to the WTO and under the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) Negotiations. Regarding the WTO, analysis by European Commission lawyers has concluded that the policy is on solid legal ground. If European decision makers want to ensure that the EU FQD can not be challenged under CETA, they should reject the inclusion of investor-state provisions and carve out the Directive from the trade negotiations. Furthermore, trade law should never be allowed to undermine important environmental and social policy, where this occurs it is a fault with trade law, not said policy.

The Tar Sands – A Treaty Rights Issue.

First Nation Treaties 1, 4, 6, 7, 8 and 11, states that the lands of First Nations cannot be compromised by uncontrolled development or threaten First Nations culture and traditional ways of life. Until recently, the remote community of Fort Chipewyan relied on an 80% subsistence diet. But now, pollution, boreal forest and ecosystem loss and habitat fragmentation is a direct threat to the cultural survival of Fort Chipewyan and other First Nation peoples living near the tar sands. People are simply too afraid to drink the water or harvest plants and animals. Some do anyways, to ensure the preservation of knowledge, though the risks are great. In BC, pipeline projects (Europe being one potential destination for tar sands crude) would cross already devastated salmon aquatic habitat and ecologically sensitive landscapes with potential spills that would further decimate the cultural heritage of First Nations peoples. The lands crossed by pipelines in BC are located on unceded territory, creating jurisdictional concerns for the governments of BC and Canada who have no legal right to grant permits for pipeline projects within these unceded lands, but they do so anyway.

The government of Canada has legally been forced by First Nations to consult with Indigenous communities about development projects. But consultation is just that, telling a community a project is being proposed that may or may not have impacts to a First Nation and the recognition of its Treaty rights. As of yet, there is no legal framework within the Constitution of Canada that recognizes the principles of Free, Prior and Informed Consent (FPIC) for the right of First Nations to say "No" to a proposed development. In 2010, Canada signed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), however with qualification, objecting to the FPIC principles. Rather, the Alberta and Canadian government rely on junk science put forth by industry and ignore the real concerns and well-being of First Nation peoples. As such, the battle over the tar sands mining comes down to the fundamental right to exist as Indigenous peoples. The tar sands are a human rights issue.

¹ Life Cycle Assessment Comparison of North American and Imported Crudes, Jacobs Consultancy and Life Cycle Associates, prepared for Alberta Energy Research Institute, 2009, <<http://www.albertainnovates.ca/media/15753/life%20cycle%20analysis%20jacobs%20final%20report.pdf>>; Oil Sands, Greenhouse Gases, and US Oil Supply: Getting the numbers right, IHS CERA, 2010, <www2.ihs cera.com/docs/Oil_Sands_Energy_Dialogue_0810.pdf>; Setting the Record Straight: Lifecycle Emissions of Tar Sands, Natural Resources Defence Council, November 2010, <http://docs.nrdc.org/energy/files/ene_10110501a.pdf> Jeremy Moorhouse, Danielle Droitsch, Dan Woynillowicz, *Backgrounder: Life Cycle Assessments of Oil sands Greenhouse Gas Emissions, A checklist for Robust Analysis*, Pembina Institute. Andrew Nikiforuk, *Alberta Hides Dirty Truth as US Demands Tar Sands Fact*, The Tyee, July 29 2010, <<http://thetyee.ca/Opinion/2010/07/29/AlbertaHidesTruth/>>.

² Adam R. Brandt, *Upstream Greenhouse Gas (GHG) Emissions from Canadian Oil Sands as a Feedstock for European Refineries*, Department of Energy Resources Engineering, Stanford University, January 18, 2011, <https://circabc.europa.eu/d/d/workspace/SpacesStore/db806977-6418-44db-a464-20267139b34d/Brandt_Oil_Sands_GHG_Final.pdf>

³ *GHG Emission Factors for High Carbon Intensity Crude Oils*, NRDC, 2010, <http://docs.nrdc.org/energy/ene_10070101.asp> in Q&A: Reducing Transport Fuel Emissions, Implementing the Fuel Quality Directive (Article 7a) Transport & Environment, October 2011.

⁴ Development of Baseline Data and Analysis of Life Cycle Greenhouse Gas Emissions of Petroleum-Based Fuels, National Energy Technology Laboratory, DOE/NETL-2009/1346, 2008.

⁵ *Climate Analysis Indicators Tool (CAIT) Version 9.0.* (Washington, DC: World Resources Institute, 2012)

⁶ *Climate Impacts*, Pembina Institute, <<http://www.pembina.org/oil-sands/os101/climate>>

⁷ Elizabeth McGowan, *NASA's Hansen Explains Decision to Join Keystone Pipeline Protest*, Reuters, August 29, 2001, <<http://www.reuters.com/article/2011/08/29/idUS257590805720110829>>

⁸ Marc Huot, Lidsay Fisher and Nathan Lemphers, *Oilsands and Climate Change: How Canada's Oilsands are Standing in the way of Effective Climate Action*, Updated October 14, 2011, The Pembina Institute.

⁹ Steam is used to extract bitumen.

¹⁰ *Ottawa's Grasp on Oil Sands Pollution Insufficient, Watchdog warns*, The Canadian Press, October 4, 2011, <<http://m.theglobeandmail.com/news/politics/ottawas-grasp-on-oil-sands-pollution-insufficient-watchdog-warns/article2190480/?service=mobile>>

¹¹ *World Energy Outlook 2011: Executive Summary*, International Energy Agency, 2011, <http://www.worldenergyoutlook.org/docs/weo2011/executive_summary.pdf>

¹² *Cancer Incidence in Fort Chipewyan, Alberta 1995-2006*, Government of Alberta, Alberta Cancer Board (2009).