Canada-EU trade deal more symbol than substance for energy sector

National Post
Claudia Cattaneo | 13/07/23

A pending trade agreement between Canada and the European Union includes an increase in the threshold, now at $1-billion, at which foreign investment deals are reviewed by Ottawa.

While more symbolic than substantial, the new threshold for Europeans, expected to be set at $1.5-billion, along with other provisions, could reignite interest by Europe in Canada's energy sector and open a new market there for Canadian oil and gas, most recently the target of Asian state-owned enterprises after Canada's historic trade partner, the United States, stepped back.

"This is a diplomatic handshake of welcome," said Brian Felesky, Calgary-based vice-chairman of investment banking at Credit Suisse. While he doesn't expect the deal to result in a rush of new European investment just yet, he said the symbolism is important.

For Canada, it means access to a large energy market that, while mature from a demand perspective, is eager to diversify its supply sources.

European energy companies are already well-established in Canada. They include RoyalDutch Shell PLC from the Netherlands, Total SA from France, Statoil ASA from Norway, BP PLC and BG Group from the U.K., and ENI SpA from Italy, through its subsidiary, Saipem. In addition, the federal government is reviewing the $1-billion sale by Suncor

Energy Inc. of its conventional natural gas assets to the U.K.'s Centrica PLC and Qatar Petroleum International.

European companies haven't been able to export Canadian oil and gas to Europe because there is no infrastructure, but that could change.

Under the deal, the EU's 28 member nations are pushing for safeguards to ensure they have access to Canadian oil and gas supplies if and when infrastructure is built, said Lawrence Herman, an international trade and investment expert with Cassels Brock & Blackwell LLP in Toronto. Already, an export gas liquefaction facility is planned for the East Coast and the Alberta-to-New-Brunswick oil pipeline proposed by TransCanada Corp. would bring Canada's oil to the Atlantic Ocean for the first time.

"In gas, there is a commonality of strategic interests," he said. "The Europeans want to diversify sources of gas, so they are less dependent on Russia, and we want to diversify customers. As far as oil, "there will be provisions to ensure that Canada does not restrict otherwise available exports of oil, and that will mean that on a commercial basis, if the Europeans are prepared to pay more for Canadian oil than U.S. purchasers, there will be no state interference in commercially available oil."

After many missed deadlines, Canada and Europe could be ready to sign a Comprehensive Economic and Trade Agreement (CETA) this fall.

According to documents leaked last month and obtained by Postmedia News, Canadian negotiators have agreed to increase to $1.5-billion the threshold for reviewing foreign acquisitions of Canadian firms by European companies, giving them preferential treatment.

The new threshold comes only a month after the federal government increased the threshold for reviews of foreign acquisitions under the Investment Canada Act from $344 million to $1 billion over the next four years.

Under the new trade deal, all EU takeovers under $1.5-billion would not be subject to review to determine whether they're of "net benefit" to Canada. The review threshold would remain at the current level for foreign state-owned enterprises, according to the documents.

While the preferential treatment would apply to all sectors, they would be highly relevant to the transaction-intensive Canadian energy sector.

The changes come amid a pullback in foreign investment in Canadian energy.

Some of it is due to uncertainty around proposed oil pipelines to accommodate growing production.

In particular, Asian investors who led a buying spree in the oil sands and in shale gas in recent years are concerned that controversies around oil pipelines planned for Canada's West Coast will keep them from shipping resources to their countries.

Big discounts on Canadian crudes and rising opportunities elsewhere, including resource plays in the United States, also dampened activity in Canada, said Rob Colcleugh, Calgary-based managing director of oil and gas at Macquarie Capital.

Mr. Colcleugh doesn't expect that increasing the threshold for government reviews will make a big difference because energy deals tend to be far larger than $1.5-billion and government reviews are not a big factor in investment decisions.

Still, Asians won't miss the symbolism of the preferential treatment offered to Europeans, in contrast to the rough ride given to their energy companies, largely state-owned enterprises, last year.

Controversies around the takeovers of Nexen Inc. by China's CNOOC Ltd. and of Progress Energy Resources Corp. by Malaysia's Petronas led to new federal restrictions on investments in the oil sands by foreign state-owned enterprises. With most available capital in Asian hands, some believe it won't be long before they demand the same considerations offered to Europe and that Canada will have to agree to avoid offending them.

Americans should pay attention to the symbolism, too. Europe's preferential access to the Canadian energy patch means another step by Canada to reduce its dependence on the U.S. market and away from its unpredictable energy politics.