Europe's Fuel In-Equality Directive

Feb 22, 2012 – 6:09 PM ET

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Financial Post

On Friday, the European Parliament votes on the Fuel Quality Directive (FQD), a piece of legislation that will in effect classify oil derived from the Alberta oil sands as 'dirty', possessing a higher carbon content than oil derived from other sources.

Canadian climate scientist Andrew Weaver recently published a paper that concluded that the reputation of the oil sands as polluting is overstated. So who are we to believe?

It really doesn't matter. The reason why the FQD is a bad idea has to do with the questionable aims of the proposed legislation and the near impossibility of implementing it in a meaningful way.

If the EU wants to cut CO_2 emissions from upstream production, the FQD is not the right instrument. If oil sands products do not enter the EU they will find other markets, ensuring that there is no reduction in CO_2 emissions globally – any CO_2 cut the EU would claim from implementation would be false, as the FQD would simply shift the CO_2 elsewhere in the global system.

It is much better to look at schemes such as flaring reduction, which has proven effective in reducing carbon emissions, than to try to force a piece of legislation designed

to cut CO2 emissions in fuels (i.e., the downstream/combustion part of the lifecycle) onto upstream production.

A second consideration is that emissions from oil fields vary dramatically over time according to geology, reservoir pressure etc. It is not possible to define a static CO2 emissions value that is accurate per crude type or by country of origin. This is exacerbated by the fact that only the EU, Norway and Alberta monitor and produce accurate CO2 emissions data. National oil companies and sovereign governments retain emissions data for the vast majority of oil production globally, where the majority of CO2 emissions from production take place.

Third, applying the label "unconventional" to oil sands in the way the EC has chosen to define it (i.e., as a fundamentally different product from other "conventional" crudes) is misleading and inaccurate. Oil sands are a hydrocarbon, the product is oil. The geology may be different, the product is not.

This is in essence the legal argument against the FQD, which concerns the WTO prohibition against governments discriminating against similar goods from different countries, otherwise known as most-favoured-nation treatment. Measures such as the proposed FQD carbon offset legislation that seek to discriminate between similar oil 'goods' is very likely WTO-illegal. WTO precedent says that comparisons of goods are to be made based on their intrinsic value and not on how they are made.

Fourth, the implementation of the FQD would be wrought

with difficulties, if not impossible. Oil sands crude is exported almost exclusively to the United States, where it is then refined, pooled together with other sources of crude and then sold on to the plastics, pharma and manufacturing industries, to name a few. Many of their products are then exported to the European Union.

So would these same exporters be expected to identify what percentage of the oil-related inputs were derived from oil sands crude? Would they be penalized if they were not able to do so? Clearly, this is an unworkable prospect that would not only introduce new levels of red tape but would also be impossible to monitor and evaluate. The FQD is a procedural nightmare in waiting that would be inaccurate and unfairly penalize all manufacturers and exporters who use Canadian crude, whether they know it or not.

The role of elected officials is not to pass legislation based on questionable moral and scientific assumptions. Rather, it is to approach issues with rigorous, objective analysis in efforts to decide on rules that are in the public interest, based both on their intrinsic merits and on their ability to achieve a desired outcome. The FQD does neither.

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