

# Op Ed: Alberta should flex muscle in trade talks with Europe

## Province must act on proposed fuel standards that target oilsands

BY HELMUT MACH, EDMONTON JOURNAL JANUARY 5, 2012

Over recent months a number of articles have appeared in the media to discuss the impact and consequences on Alberta oilsands production of proposed European Union low-carbon fuel standards which discriminate against oil produced from oilsands. These proposed standards would create an artificial barrier to trade, and, more importantly, establish a precedent to discriminate against oilsands production.

A number of responses have been suggested, including demanding that the matter be dealt with in the current Canada-EU Trade Agreement (CETA) negotiations. Failing satisfactory resolution in these talks, Canada would then pursue the matter in the World Trade Organization by launching a trade complaint, and also, giving notice of withdrawal from the energy security agreement, the International Energy Programme (IEP) of 1974. Unfortunately, this set of alternatives will be ineffective and futile.

WTO dispute-panel proceedings are lengthy, time-consuming, uncertain in outcome, and difficult to ensure proper implementation of rulings, if they do come out in Canada's favour.

The EU is a master of obfuscation. It has demonstrated its expertise and imaginative regulatory procedures for delaying or avoiding

implementation of adverse panel rulings in the past. Often outcomes are delayed three to five years and in some circumstances, implementation is just refused.

This sort of outcome can be expected in a Canadian challenge of the low-carbon fuel standard in the WTO, with the EU trumpeting its environmental objectives for domestic political purposes.

Regarding the option of withdrawing from the IEP, this is equally futile and potentially damaging to Canada. Besides European countries, the IEP also has as members the United States, Japan, South Korea, Australia and New Zealand.

In withdrawing from the IEP, Canada would be damaging its international relations with countries, most notably the U.S., whose economic relationship with Canada is much more important than the relationship with Europe.

The EU, which gets no fuel from Canada anyway, will ignore Canada's withdrawal notice. However, can anyone really imagine that while Canada is trying to convince the U.S. of the stability and security associated with going ahead with the Keystone-XL pipeline, it would be in any way realistic or logical to suggest that Canada would withdraw from an energy security pact involving energy trade between Canada and the U. S.?

That Alberta pursue the matter in the CETA trade talks with Europe has already been suggested to the province. Unfortunately, there doesn't appear to be any action on the idea.

The CETA negotiations provide an opportunity for Alberta to act. The

EU should be advised that the matter of the fuel standards should be dealt with in the CETA negotiations. To ensure this receives the attention needed, Alberta's current contributions to the CETA negotiations - its offers of treatment of EU service, investment, and giving access to Alberta government procurement to EU firms - should be suspended, pending resolution of the fuel-standards issue.

The CETA negotiations directly involve provincial governments because the EU wanted them included, because the EU saw great benefit in securing commitments from provinces in areas of provincial jurisdiction such as those mentioned above. Thus, Alberta should suspend its offers in these areas.

This approach has a number of advantages. First, there would be leverage in getting the matter discussed. Second, there would be immediate, significant, tangible, economic consequences visible for the EU to consider in deciding on its course of action.

Third, the matter would be under the direct and immediate control of the Alberta government. The WTO and IEP strategies suffer from the need to have these decisions made by the federal government, with no Alberta control.

One might wonder what the consequences would be if there were no agreement with the EU on the fuel standard and the suspended Alberta offers. It could be there is no wide-spread understanding of the Alberta legislation, the International Trade and Investment Agreements Implementation Act, which was used to implement the Canada-U.S. Free Trade Agreement and the NAFTA in Alberta.

This provincial legislation provides only that Alberta may implement

such international agreements if the government deems them to be economic benefits to Alberta. In the absence of such a finding and recommendation, such international agreements may not be implemented in Alberta.

This provincial law needs to be brought to the attention of European negotiators - because in the absence of a meaningful solution to the fuel standards matter, it would be difficult to find the CETA as being of economic benefit to Alberta. The level of trade with the EU is relatively small, the prospects of significant expansion are severely limited, especially given the current economic turmoil in the EU with growth prospects virtually at nil for the next decade.

In addition, the most important matter for Alberta, increased access for beef, is highly contentious and the talks are uncertain to produce much of an improvement.

There has been no political decision by the province to become more active on this issue. It seems the Alberta government has just left the whole matter to the industry and the federal government, and just sought to avoid any responsibility itself for the one of the largest components of the Alberta economy.

How sad, what a comedown.

*Helmut Mach is a former Alberta trade representative and chief provincial trade negotiator.*