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EU tar sands law would cost oil firms 'less than a euro cent a litre'

EXCLUSIVE / A stalled internal EU report has found that draft proposals to apply a high-polluting tax to unconventional fuels such as tar sands would have an effect on oil prices too minimal to be felt at filling stations.

Brussels proposed the revised law to force oil companies to account for increased greenhouse gas emissions from the energy intensive process of strip mining and steam injections needed to produce tar sands.

Canada and the oil industry both complained that the EU was using a punitive methodology.

But after a review of the various methods devised by industry, academia and the EU for calculating the proposal's effect on oil costs, "it has been found that pump price impacts for all methods are roughly the same at substantially less than a Euro cent a litre," a Commission source told EurActiv.

"The bottom line is that there is very little difference between the methods when it comes to costs," the source added. The EU's proposal would thus be mostly symbolic but the unconventional oil sector fears an effect on exports and market access elsewhere.

That in turn has led to [a fierce lobby campaign](#), which appears to have gummed up the EU's legislative process.

Brussels has finished but not published an impact assessment that would amend the bloc's Fuel Quality Directive (FQD), which sets a 6% CO₂ emissions reduction target for transport fuels by 2020.

Nobel laureates

Frustrations at the delays to the legislation are riding so high that 21 Nobel Laureates have today (3 October) written to the Commission president, José Manuel Barroso demanding immediate implementation of the FQD, and its application to fuel from tar sands.

"We welcome the EU's scientific analysis — as now proposed for the implementation of the EU Directive — that the extraction and production of fuels from unconventional sources including oil sands, coal-to-liquid, and oil shale leads to higher emissions and that this should be reflected in the regulations," the prize-winners' letter says.

Its signatories include Mairead Maguire, Archbishop Desmond Tutu, José Ramos-Horta and John Hume, reflecting wide concern about the tar sands industry.

Climatologists [such as the ex-Nasa scientist, James Hansen](#), say that oil in the tar sands reserves amounts to more than double all the oil that has been burned so far in human history, and cannot be retrieved if the world is to avoid climate catastrophe.

Tar sands production requires the destruction of often pristine Canadian forests, and the use of vast amounts of water which mostly end up in toxic 'tailing' ponds.

But the FQD review process to regulate it has effectively ground to a standstill, amid rumours of a demarche involving EU free trade negotiations with Canada and the US. Brussels officials are taciturn on the subject.

"The full impact assessment has been ready since the end of August but impact assessments never go out unless proposals are put forward," one said.

"We are working on the proposal and I cannot say how long it will take," he added.

Trade talks

Ottawa has lobbied intensely against the new measure, arguing that it would unfairly discriminate against its industries, for being more transparent about the CO₂ emissions from their tar sands production. Canada has raised the issue [in the context of a free trade agreement with the EU](#), now said to be close to agreement.

Washington has also joined the fray. In July, the US trade representative, Michael Froman [told a Congressional House Ways and Means Committee](#) hearing that he had raised "the lack of adequate transparency and public participation" in the EU's FQD assessment process with senior Commission officials, on several occasions, including during talks on the TTIP EU-US free trade agreement.

Brussels counters that its legislative process is similar to the US's, only with stakeholder consultations taking place before - rather than after - regulations are released. The EU also has an added period of scrutiny by member states before laws can be passed.

Officials told EurActiv that EU figures on conventional oil emissions were taken from sources such as the refineries association, Europa, the EU's Joint Research Centre and the oil companies' European association, [CONCAWE](#), when it has cooperated.

Froman, [a former Managing Director of Citigroup](#), said that Washington was continuing to press Brussels to take the views of US oil refiners and others into account. "If the proposal is implemented," he added, "the fuels processed from such crudes likely would not be exportable to the EU, adversely affecting the significant fuels trade between the U.S. and Europe."

But energy exports to the EU from the Canadian province of Alberta, which contains North America's biggest tar sands reserves [made up 4% of the total average between 2008-2012](#), compared to nickel (32%), machinery (13%), and wheat (12%).

Private sector pressure

Trade pressure on the EU has also been mounting from the private sector. [Letters released](#) under Access to Information laws show that Ben van Beurden, the downstream director for Royal Dutch Shell, [which has tar sands holdings in Alberta](#), sought a meeting with the trade commissioner, Karel de Gucht about the FQD in the context of the EU-US trade talks.

[Another missive to Jos Delbeke](#), the EU's director general for Climate Action, from the US Chamber of Commerce, American Petroleum Institute, American Fuel and Petrochemical manufacturers and National Association of Manufacturers says that compliance with the FQD

would require costly and unworkable identity preservation schemes to track crude oil molecules along the supply chain.

“Should this [FQD] proposal be adopted in its current form, we will give serious thought to requesting that the U.S. Government seek redress at the WTO,” it warned.

[Threats of a WTO suit](#) have been a constant in the tar sands lobby battle but, according to internal EU advice drafted in 2011, the EU has little to fear from such an action.

“The Commission’s Legal Service has provided reassurance that the greenhouse gas methodology set out in the implementing directive, as regards natural bitumen feedstocks, may probably be defended in case of a challenge before the WTO adjudicatory bodies,” says an internal briefing, which EurActiv has seen.

Brussels considers that its approach, which is based on a paper by the Stanford University academic, Adam Brandt, is science-based, non-discriminatory (it takes place between ‘like products’) and covered by derogations from the GATT trade deal.

Barroso distracted?

Environmentalists say that Commission President José Manuel Barroso has been distracted from the legislation by talk of a future high profile role with NATO or the UN after the tenure of this Commission ends in November 2014.

“In his state of the union speech, Barroso recently said that Europe should continue to shape the international climate agenda and fight global warming at home,” said Darek Urbaniak, the extractive industry’s spokesman for Friends of the Earth. “He should put his money where his mouth is by prioritising the European public good ahead of his personal career ambitions, and implementing the FQD.”

One formidable obstacle to the legislation’s passage may come from states such as the UK and Netherlands, [which have blocked it in the past](#).

Eastern European states and Italy are also thought antagonistic to the legislation, while Germany is at best neutral.

Until there is sufficient member state support – which would allow a vote to be taken in the European Council – delays in the measure’s completion seem set to continue.