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Energy, the Environment and the Bottom Line

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Canada, Climate and Trade

By *JOHN LORINC*

Regardless of the outcome of the climate talks in Copenhagen, Canada and the United States could be heading for a trade battle over energy exports, according to a prominent Canadian trade lawyer who recently returned from the Danish capital.

In an interview, Barry Appleton described the climate treaty negotiations and the climate legislation pending in the U.S. Congress as a “double storm” for Canada, which sold **\$115 billion** worth of oil and gas to the United States in 2008.

Fearing that aggressive U.S. climate change policies will penalize Canada’s export-oriented oil and gas sector, prime minister Stephen Harper and his officials have been pushing President Obama to adopt a “**continental perspective**” on climate change policies because so much fossil fuel now flows south across the border.

He pointed out that some aspects of the proposed U.S. legislation, known as the Waxman Markey bill, may contravene World Trade Organization rulings, especially those requiring equal treatment for goods that are produced differently in different markets. Under the proposed law, imported crude oil from Canada’s tar sands could theoretically be penalized with tariffs because of the high emissions associated with the production process.

But Mr. Appleton notes there’s hardly a consensus on this approach because American energy security advocates prefer Canadian crude to imports from antagonists like Venezuela. Yet if Waxman Markey becomes law, he adds, “there is no doubt there will be some kind of dispute unless the Canadian government changes its policy,” a development he deemed to be “unlikely.”

The energy trade issue re-surfaced unexpectedly this week when the Canadian Broadcasting Corporation **obtained** a leaked memo suggesting the Canadian government was thinking about measures to protect key “trade-exposed” natural resource sectors, including the oil sands.

The draft document, according to the CBC, indicates that previously adopted, stringent requirements for lowering emissions in the oil and gas sector might be relaxed, to only a third of the level set out in the federal government’s 2007 **emissions** plan, which includes a cap-and-trade mechanism and a technology fund.

Speaking to reporters, environment minister Jim Prentice did not rule out the possibility, but stressed that Ottawa has not yet finalized its policy position.

The Globe and Mail also **reported** that Canadian oil sands producers are looking for the same sort of regulatory relief being extended to U.S. coal producers.

Canadian environmental groups reacted with incredulity. “We already have massive subsidies for the oil sands sector,” says Simon Dyer of the Pembina Institute. “This seems inappropriate.”

Mr. Appleton characterized the leaked proposals as “incoherent.” A spokeswoman for the U.S. Trade Representative declined to comment.

The controversy over the Harper government’s shifting stance is yet another black eye for Canada during the Copenhagen negotiations. While the Canadian delegation may be looking forward to leaving the Bella Centre, the future of its oil and gas exports is far from resolved. “This issue is not going to go away,” says Mr. Appleton.