



# **ENERGY POSITION PAPER THE COUNCIL OF CANADIANS**

Drafted by the Council of Canadians'  
Board-Staff Committee on Energy

August 2007

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## **ENERGY POSITION PAPER THE COUNCIL OF CANADIANS**

### **THE CURRENT CONTEXT**

Prime Minister Stephen Harper likes to say that Canada is becoming an energy superpower. If that is true, we are a strange superpower indeed.

What kind of energy superpower has no policy to direct and develop its own resources? What kind of superpower depends on another nation to decide on its priorities? What kind of energy superpower relies on imports for half of its own energy needs? What kind of superpower cannot guarantee resource access to its own citizens, and tolerates environmental disasters on its own territory, while the energy sector rakes in record profits?

For over 15 years, Canada has lived with free trade agreements and free market rules that are used to ensure that our energy resources keep flowing out of the country with little or no direction from government. As energy resources are depleted, extraction becomes more costly and environmentally destructive. Governments all over the world are taking an active role in developing strategies and policies to ensure their energy security and to limit the impact on the environment. Sadly, that is not the case in Canada. In one of the coldest countries on earth, our government is working on an energy plan that will hand over what little control it has left to the whims of the United States, the markets and the big oil companies. This plan will not make us an energy superpower – it will turn us into a gas jockey.

### **Energy policy and NAFTA**

Most experts agree that gaining access to Canadian and Mexican energy resources was one of the key factors motivating the U.S. government to seek a free trade deal with its neighbours. Under the North American Free Trade Agreement (NAFTA), market forces drive Canada-U.S. trade in energy but not Mexico's oil industry, which is nationalized under the constitution.

NAFTA limits the ability of the Canadian government to impose import or export restrictions, or to intervene in energy trade except in extraordinary circumstances.

As long as Canada continues to remain in NAFTA or fails to renegotiate the proportionality clause, Canada must abide by the proportional sharing rule<sup>1</sup>, which states that access to energy goods must be made available to the other party in an amount average to the supply over the last 36 months. Mexico, because of the constitutional protection mentioned above, has not signed the proportional sharing clause in NAFTA.

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<sup>1</sup> NAFTA, art. 605 (a)

Furthermore, the Canadian government cannot treat foreign owners less favourably than it does domestic investors<sup>2</sup> and cannot implement a two-price system for domestic use and for exports<sup>3</sup>.

In order to establish a Canadian Energy Strategy on a different model, we must first get a Mexican exemption on proportionality or exit NAFTA, and reverse 20 years of market friendly integration. The Mexican exemption from the proportional sharing clause in NAFTA could be used as a stepping-stone to getting out of NAFTA's proportionality requirements.

### **Energy Integration and the Security and Prosperity Partnership (SPP)**

In March 2005, the leaders of Canada, the United States and Mexico formally agreed to a Security and Prosperity Partnership of North America (SPP). The SPP created six security working groups and 10 prosperity working groups. Energy was identified as a top priority of the SPP but it was decided that the North American Energy Working Group (NAEWG), established in April 2001, would now continue its efforts within the framework of the SPP. The goal of this group is to “assess and enhance trilateral energy trade information to improve the decisions of governments and industries concerning energy policies, regulations, national security and other significant regional issues.”<sup>4</sup>

Under the SPP, the NAEWG will further strive to remove energy trade barriers and enhance infrastructure interconnections within North America. It is clear by this group's report that the future of all energy policies and regulations will be continental in nature. Indeed, they consider North America to be one of the world's most important “regions” for energy, and the group makes constant reference to the North American energy sector and the “region's” energy needs.

A report by the Fraser Institute also typifies this point of view.<sup>5</sup> In it, the authors state that the border is invisible in trade of oil, electricity and gas and that this trade is done through “interconnected regions.”<sup>6</sup> The authors reject any solutions for energy security based on “national independence” in favour of the ones found in “integrated regional markets.”

Canada clearly faces a number of challenges in regard to its energy security:

1. Canada imports 42 per cent of the oil it consumes even though Canada exports 63 per cent of the oil it produces to the U.S.;
2. Demand, notably from China and India, is growing quickly, which contributes to scarcity and rising prices;

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<sup>2</sup> NAFTA, art.1102

<sup>3</sup> NAFTA, art. 605 (b)

<sup>4</sup> North America - The Energy Picture II, NAEWG , January 2006

<sup>5</sup> A.Moens, T Rastin, G. O'Keefe, October 2006

<sup>6</sup> IBID executive summary

3. Over 40 per cent of Canadian imports come from countries that are politically unstable, with governments that abuse human rights;
4. The world's conventional reserves, including Canada's, are shrinking fast.

The proponents of the Security and Prosperity Partnership have an answer for these challenges: let the big oil companies operate as if North America were one huge market instead of three independent countries; eliminate any obstacles to market-based solutions including environmental restrictions and First Nations land claims; streamline and consolidate all rules and regulatory procedures within this huge “market;” and provide tax incentives for everything else including new pipeline development and technological advances. In other words, the role of government is to eliminate rules and cut taxes, the rest is left to the so-called invisible hand of the market. We propose a different path.

## **WHY WE NEED A CANADIAN ENERGY SECURITY STRATEGY**

Government energy policy—both federal and provincial—is in crisis. Canadians urgently need a new Canadian Energy Strategy, one that meets the fundamental demand of energy security for all Canadians, now and in the future. Central to this objective must be the overarching imperative that current and future production, distribution and use of Canadian energy be environmentally safe and sustainable.

### **a) It is long overdue**

Canada has been without a national or environmentally sustainable energy policy for over 20 years. Since the early 1980s, our political leaders have not even considered policies such as price controls, export limits, strategic reserves and restriction of foreign ownership. Since Brian Mulroney declared us “open for business” in 1984 and signed the Western Accord with the three western-most provinces. Canada, east and west, has functioned with a “free market” approach for the oil and gas industry ever since. This “free market” is “dominated by a small number of very large transnational corporations, working together as an oligopoly with strong support from governments.”<sup>7</sup>

### **b) Everybody else has one**

Energy expert Michael Klare remarks that all major energy producing and consuming nations have embarked on major reviews of energy policy in recent years. These governments have all come to the conclusion that market forces alone cannot satisfy essential national energy requirements, but that the state must assume more responsibility for performing this role. This was the fundamental conclusion of the National Energy Policy adopted by the Bush administration on May 17, 2001. Even the Fraser Institute concedes that Canada is going against a world trend where oil and gas reserves are increasingly held by state owned firms and that a mere 20 per cent of oil production is in the hands of private companies.<sup>8</sup>

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<sup>7</sup> J.Warnock, *Selling the Family Silver*, Parkland, CCPA, 2006

<sup>8</sup> A.Moens, T Rastin, G. O'Keefe, p. 9

Deborah Yedlin, an industry analyst for the *Globe and Mail*, also writes that new oil reserves are harder to access technically and politically:

No matter how one looks at the global energy picture, it is increasingly evident that the balance that was tipped for so long in favour of the big, Western-based, private sector players has shifted in the opposite direction toward the national oil companies and the countries that control them. These are indeed challenging times for "Big Oil," even with high oil prices.<sup>9</sup>

Joseph Stroupe, editor of *Global Events Magazine*, further questions the dominance of big oil but also of the United States when it comes to securing strategic resources in the world today. In an article published in 2006,<sup>10</sup> Stroupe states that the global dominance and control of oil by major Western companies is over. Indeed only nine or 10 per cent of global reserves are under big oil control.

Unfortunately, it appears that "Big Oil" still has a few playgrounds around the world. The Alberta tar sands are among the regions of the world where the oil giants still run the show largely unimpeded by public interest policies.

Even the United States, a net importer, has an energy policy. Its emphasis on oil independence, self-sufficiency, domestic ownership and control and, more recently, fuel efficiency and limits on car emissions are all policies we should ask the Canadian government to match.

### **c) Not having a policy is costing us dearly**

#### **The financial cost**

The Conference Board of Canada<sup>11</sup> reports that energy is a major driver of Canada's economy and society and that Canada's energy sector makes substantial contributions to the national economy.

In strict financial terms this may be true, however, a number of authors including Hugh McCullum,<sup>12</sup> Maude Barlow<sup>13</sup> and John Dillon have clearly demonstrated that, although very lucrative, the oil and gas industry—and the tar sands especially—is very costly on the environmental and social fronts. It is generally acknowledged that increasing emissions from the tar sands will prevent Canada from keeping its commitments under

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<sup>9</sup> Yedlin, *Globe & Mail*, Jan. 26, 2007

<sup>10</sup> [http://www.atimes.com/atimes/Central\\_Asia/HK23Ag01.html](http://www.atimes.com/atimes/Central_Asia/HK23Ag01.html)

<sup>11</sup> The Conference Board of Canada, *Mission Possible: A Canadian Resource Strategy for the Boom and Beyond*, vol. 2, Jan. 2007

<sup>12</sup> *Fueling Fortress America*, McCullum, 2006, CCPA, Polaris, Parkland Institute

<sup>13</sup> Maude Barlow, *Too Close for Comfort*, McClelland & Stewart, 2005

the Kyoto protocol on climate change, let alone from achieving the reductions needed to truly address global climate change.

Some of the other now well-known effects of oil and gas production include: the devastation to the boreal forest; the vast amounts of water required for the mining process; the fact that the tar sands are already the largest contributor to the growth of greenhouse gas emissions in Canada; the use of relatively clean burning natural gas to extract heavy crude; the lack of infrastructure and public services in affected northern communities; the impact on aboriginal communities and their land claims; and the environmental impact of offshore development and the general lack of consultation with the public in general.

The issue of royalties, rents and subsidies also falls in the category of financial costs. John Dillon, program coordinator for KAIROS, has produced a study of royalties and rents around the world. He points out that other national governments, even as they rely on market conditions, receive much greater benefits than do Canada or Alberta:

Producers have had to pay Alberta only a one per cent royalty until they recover all their capital costs. After all the costs of bringing a project on stream have been covered, the companies will pay a 25 per cent royalty on net project revenue, that is, after deduction of all operating costs. Hence the companies take advantage of this incentive and keep on investing in the expansion of oil sands projects rather than make more ecologically responsible investments.<sup>14</sup>

Likewise, political economist John Warnock confirms<sup>15</sup> that Canadian royalties are some of the lowest in the world, making the oil and gas industry the most profitable sector in Canada. He argues that economic rent, the financial surplus over and above the cost of exploitation, is easiest to use in the public interest when the resources are developed through state-owned enterprises, but that joint ventures are also adequate in order to recover reasonable rents.

### **The environmental cost**

According to a new report by Nicholas Stern<sup>16</sup>, head of the British Government Economic Service and a former World Bank economist, governments must act soon to cut industrial emissions if the world is going to avoid drastic economic and environmental consequences from global warming. Global warming could drive the world economy into a 1930s-style depression and the environmental cost of global

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<sup>14</sup> Dillon 2006 <http://www.kairoscanada.org/e/resources/policyBriefing4Bolivia0610.pdf>

<sup>15</sup> J. Warnock, *Selling the Family Silver*, Parkland, CCPA, 2006 \$0.23 per barrel. The result of high prices and low royalties and taxes has been a very high return on equity, rising to 22.4 per cent in 2005

<sup>16</sup> [http://www.hmtreasury.gov.uk/independent\\_reviews/stern\\_review\\_economics\\_climate\\_change/sternreview\\_index.cfm](http://www.hmtreasury.gov.uk/independent_reviews/stern_review_economics_climate_change/sternreview_index.cfm)

warming could range between five and 20 per cent of the world's gross domestic product, or total annual economic output, after 2050.

The overwhelming scientific evidence shows that climate change is already happening and that avoiding dangerous and permanent impacts will undoubtedly require radical changes to the ways societies define and meet their energy needs. Political and business leaders will have to agree that carbon emissions must peak at some point in the near future and decline each year after that. From now on, international debate and negotiations will focus heavily on the global agreement necessary to achieve these targets, particularly as the Kyoto Protocol runs out in 2012.

The Alberta tar sands project, from which 75 per cent of crude oil exports head to the U.S., has become Canada's largest emitter of carbon dioxide. Existing energy commitments to the United States are already preventing us from meeting our Kyoto Protocol obligations and things are going to get worse. A CBC news story from early 2007 reported that U.S. and Canadian oil executives and government officials met for a two-day oil summit in Houston in January 2006 and made plans for a "fivefold expansion" in tar sands production in a relatively "short time span."<sup>17</sup>

Tar sands development destroys vast tracts of land, clears forests, and consumes 26 per cent of Alberta's groundwater. It takes between three and five barrels of water to extract just one barrel of oil. The resulting toxic wastewater cannot be put back into circulation, so it sits in 50-square-kilometre pools visible from space. We may be securing the North American region's energy needs, but a good portion of the environmental fallout will be felt mainly in Alberta. To add insult to injury, the report also stated that the proposed expansion would require Canada to "streamline" its environmental regulations.

As energy expert Gordon Laxer has noted, there is no connection between production and consumption in Canada. If Canadians were to make the necessary changes to their lifestyle, cut consumption and drive Smart Cars, the effect would be almost irrelevant if we keep producing more oil for export just so Americans can drive Hummers.<sup>18</sup>

## **FIVE PRINCIPLES WE SHOULD FOLLOW**

Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.<sup>19</sup>

The Council of Canadians needs to elaborate a position framed in a long-term ecological sustainability perspective but strategically grounded in practical steps and demands.

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<sup>17</sup> The "[Oil Sands Experts Group Workshop Report](#)" from the January 24-25, 2006 meeting in Houston, Texas

<sup>18</sup> Conversation with Mr. Laxer prior to the 2006 Council of Canadians annual general meeting in October 2007, Ottawa.

<sup>19</sup> Brundtland Commission, *Our Common Future*, p. 43

Sustainable development is usually associated with three principles – economic development and prosperity, environmental protection, and the protection of social systems and human rights.

All of the strategic demands for energy security listed below would need to be submitted to the test of promoting the overarching imperative of ecological security and would address the various challenges noted in this policy paper and by environmental activists (e.g. stopping climate change, the depletion and pollution of fresh water, air pollution, environmental degradation, the hazards of increasing reliance on nuclear and coal energy).

Finally, a Canadian energy strategy must ensure that its principles help reinforce, rather than trump, international environmental, social, and human rights obligations. In brief, Canadians' need for energy security can be stated in five key demands, each of which addresses a number of specific concerns and issues.

### **1. Security of the environment**

Canadians are concerned about climate change, and about meeting and exceeding our commitments under the Kyoto Protocol. As the Suzuki Foundation reports, Canadians are among the most environmentally aware citizens on the planet.<sup>20</sup> In spite of this, we are also a wasteful nation in terms of water and energy use, and greenhouse gas emissions. In other words, there is a serious gap between our values as citizens and our record as a country. We need to push the government to enact policies that meet the expectations of Canadians by encouraging environmentally sustainable production, distribution and use of energy, as well as new technologies. One possible avenue to finance new clean energy technologies is simply to transfer oil industry subsidies to green alternatives. A 2005 study by the Pembina Institute concluded that the oil industry receives over \$1.4 billion per year in subsidies from the federal government alone.

Canada's specialized role as America's fuel tank means that production of greenhouse gases by ordinary Canadians seems higher than it really is.

### **2. Security of supply:**

The government should be pressed to pursue a policy of multi-year reserves for use by Canadians in hard times and to assist in the longer-term transition to greener energy alternatives (eg. wind, solar, etc.). This is our only genuine security for the future.

The "Dinning Principle" should be extended to oil. In 1949, R. J. Dinning headed an Alberta commission that recommended that the province retain a 50-year supply of natural gas before exporting to other provinces. The Dinning Principle would essentially mean that only after Canadians are taken care of should energy surplus be exported. With

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<sup>20</sup> David R. Boyd, *Sustainability Within a Generation: A new Vision for Canada*, Suzuki Foundation, 2004

dwindling conventional oil and gas supplies, however, the period of proven supplies before exports should be 10 to 15 years.<sup>21</sup>

An energy exemption should be negotiated in NAFTA to ensure that Canadian non-renewable energy sources are conserved for future generations.

We should reject the continental resource pact as proposed under the Security and Prosperity Partnership.<sup>22</sup> In this agreement, there are no Canadian or Albertan resources. All resources are “North American.”

### **3. Security of production**

The following recommendations would help ensure security of energy production:

- Re-establish some oversight of Foreign Direct Investment (FDI) to protect Canadian resources from foreign control.
- Emphasize First Nations ownership with partnership agreements and co-management. Some of the benefits should be directed toward education, social and health services, land claims and land use settlement, and fighting poverty in aboriginal communities. Furthermore, development should not take place where outstanding land claims have not been settled.
- Emphasize provincial ownership of resources and insist that owners receive 100 per cent of the “surplus profits” from nature’s capital (economic rents).
- Change Alberta’s outdated royalty regime. The paltry one per cent before capital costs are paid off has led to record profits from the oil companies and contributed to uncontrolled development of the tar sands.
- Put a premium on Canadian jobs. Nothing better exemplifies the weakness of Canada’s energy position as the Keystone pipeline project. Sending unprocessed bitumen to the U.S. through this pipeline could cost Canadians thousands of refining jobs.

### **4. Security of distribution**

The federal and provincial governments should elaborate a west-east energy sharing arrangement so that Canadians can rely more on their own energy and less on off-shore

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<sup>21</sup> Laxer speaking at the Council of Canadians annual general meeting, October 2006, Ottawa.

<sup>22</sup> While the exact words “continental resource pact” do not appear in the SPP’s “Prosperity Annex,” SPP working groups have been working on greater oil, natural gas and electricity collaboration since 2005. A broader resource pact was proposed by the Canadian Council of Chief Executives in a speech given in five U.S. cities by CCCE President Tom d’Aquino between February 24 and March 3, 2005, and entitled “Beyond Free Trade: A Canada-United States Partnership for Security and Prosperity.” It was also a recommendation of the final report in 2005 of the Task Force on the Future of North America, a government sponsored brainstorm session on integration.

energy suppliers. The Sarnia-Montreal pipeline should also be reversed, so Western oil can be brought to Quebec.<sup>23</sup>

## **5. Security of access**

Governments should provide protection for programs and regulations designed to guarantee access to energy by residential consumers (especially seniors, persons with disabilities and low income families), for the purposes of heating, lighting and refrigeration, and respect the right to adequate housing, which is recognized internationally.<sup>24</sup>

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<sup>23</sup> Conversation with Gordon Laxer, October 2006.

<sup>24</sup> See the International Covenant on Economic, Social and Cultural Rights, Can. T.S. 1976 No. 46, articles 2 and 11; and the United Nations Committee on Economic, Social and Cultural Rights, [General Comment 4: "The Right to Adequate Housing"](#) (December 1991) interpreting article 11(1) of the Covenant at para. 8(b):

## CONCLUSION

We stand at a critical juncture in Canada's energy history. NAFTA and the market-friendly policies of the past 20 years have severely curtailed governmental oversight and input in the Canadian energy industry. The policy changes proposed under the Security and Prosperity Partnership would spell the end of any sovereign control over the energy resources of this country. The regulatory harmonization that accompanies this agreement would effectively eliminate any future Canadian policy on behalf of sustainable development and environmental protection and tie us to fossil fuels for years to come. It is not in the economic interests of Canadians to leave aggressive research and development of environmentally friendly energy alternatives to others. We should and must be leaders in renewable and clean energy technology or we will be ultimately impoverished by our own reckless dependence on oil and gas exports under NAFTA today, and on foreign sources and polluting energy technologies tomorrow.

## RECOMMENDATIONS

### **The Council of Canadians recommends:**

- An end to subsidies for the oil and gas industries.
- Massive and consistent investment in alternatives like solar and wind power.
- The withdrawal of the proportional sharing clause from NAFTA.
- Rejection of a continental resource pact as contained in the SPP.
- Better royalties for the provinces.
- More consultations and more control for First Nations.
- Strong government incentives to explore and develop renewable sources of energy.
- Support for vulnerable Canadians who cannot afford market prices to heat their homes.
- A national strategy (in cooperation with provinces) and timetable for reducing dependence on fossil fuels and natural gas.
- A return to Canada's previous policy of maintaining a 25-year supply of oil and gas to meet domestic needs first.