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Sealing (and) the deal with Europe

Posted by [Anthony Speca](#) on Oct 03, 2012 in [Anthony Speca](#), [Economy](#), [International political economy](#), [Seals](#)

Our international correspondent Anthony Speca argues that northerners shouldn't worry that Canada will abandon its challenge to the EU's seal-trade ban in favour of a free-trade deal with the EU. They should worry instead about the damage the ban has done to the very idea of Inuit as economic actors in the modern marketplace

On September 24, Minister of Fisheries and Oceans Keith Ashfield—together with his Cabinet colleagues

Leona Aglukkaq from Nunavut and Peter Penashue from Labrador—[announced Canada's readiness](#) to proceed with its [World Trade Organization \(WTO\) challenge](#) to the EU's ban on the trade in seal products. Canada is joined by Norway, which lodged [its own complaint](#) with the WTO against the ban. Both countries assert that the ban contravenes commitments to free trade the EU has made as a WTO member. They've now formally asked the WTO to convene a dispute-resolution panel to adjudicate their case.

This should come as no surprise. Canada and Norway appealed to the WTO in November 2009, almost immediately after the EU adopted its ban. They then sought mutually acceptable settlements with the EU, [as required under WTO rules](#). In February 2011, having failed to reach any settlement, Canada informed the WTO that it intended to press ahead with litigation. Norway followed suit the next month. The latest announcement serves notice that Canada and Norway are now “ready with their legal case” and that they ask the WTO to staff its panel and commence hearings.

Nevertheless, some Members of the European Parliament (MEPs) responded to Canada and Norway's move with expressions of—if not surprise—then indignation. David Martin, a senior British MEP [who's described the Canadian seal hunt](#) as “barbaric” and “disgusting,” [expressed his disappointment](#) with what he sees as Canada's “pointless attack on the democratic rights of European citizens to choose which products we place on our market.” He predicted the WTO challenge would be “doomed to failure.” As a member of the European Parliament's International Trade Committee, Martin also issued Canada a warning. “While the Canadian government may want the public to believe otherwise, this WTO challenge is putting a serious strain on the ongoing Canada-EU trade negotiations.”

Martin was referring to the [Canada-EU Comprehensive Economic and Trade Agreement \(CETA\)](#), one of Canada's flagship trade initiatives and a more ambitious trade treaty even than the 1994 North American Free Trade Agreement. Should Northerners—and particularly Inuit—worry that Ottawa might sacrifice Canada's tiny commercial sealing industry to win its coveted free-trade deal?

There is some cause for concern. The European Parliament of which Martin is a member [must give its consent](#) to CETA before it can come into effect. Martin's parliamentary colleagues [approved their seal-trade ban](#) by an overwhelming margin, with 550 voting in favour and 90 voting against or abstaining. In June 2011, after Canada and Norway asked the WTO to form a dispute-resolution panel, Martin and 100 other MEPs [signed a statement](#) sponsored by the Humane Society to oppose CETA unless Canada withdrew its challenge. In January 2012, the European Parliament accepted a separate [petition from the Humane Society](#), signed by over 20,000 European citizens, calling on all MEPs to do the same.

Even in Canada, the costs and benefits of the WTO challenge have come under scrutiny. *The Globe and Mail* [has highlighted](#) that it will cost Canada \$10 million to contest the EU's ban at the WTO, while the commercial sealing industry was able to harvest only [about \\$1 million worth of pelts](#) in both 2009 and 2010. By contrast, CETA is expected to [increase Canadian exports](#) to the huge European market by nearly \$13 billion annually across multiple industries, as well as to offer new opportunities for Canadian investment in the EU. The Humane Society [has denounced Canada's WTO challenge](#) as “a colossal waste of taxpayers' dollars.”

Yet Canada's commercial sealing industry was more valuable as an on-going concern before the EU banned the trade, having harvested pelts worth \$34 million in 2006. As I explained in [an earlier post](#), one of the principal reasons for the collapse of the industry has been legislation against the trade by importing countries. Canada's challenge to the EU ban is by extension a challenge to other bans, such as those by Mexico, Russia and the USA, and to potential bans in other markets [such as China's](#). More generally, it also demonstrates to the EU that Canada will protect any valuable trade advantages it gains under CETA. Ottawa has defined its WTO challenge as a [matter of political principle](#) rather than of mere economics. It's also good politics in Canada's North, and in Newfoundland and Labrador.

Moreover, CETA is [worth billions of euros](#) in trade and investment to the EU. The European

Commission—the EU’s executive body, which is responsible for actually negotiating CETA—seems unwilling to hold such significant economic gains hostage to a tangential dispute about seals, and it [has avoided the issue](#) during CETA negotiations. After all, what sort of message would the EU send to Canada were it to refuse to free up trade any further because Canada asserts that trade between them isn’t as free as it’s already supposed to be?

Taking a more sober line than Martin and his colleagues, the European Commission [has advised MEPs](#) to reject brinkmanship. It noted that the EU would still have to defend its ban against Norway’s legally distinct WTO challenge even if Canada were to back down, “possibly affecting the package of rights the European Union is carefully negotiating with Canada under CETA” to little advantage. It also cautioned MEPs that demanding Canada to withdraw its WTO challenge implies the EU’s rationale for the ban is weak. In the European Commission’s view, it would set a dangerous precedent to offer CETA as a concession to forestall litigation the EU believes it can win.

So it appears that Inuit and other Northerners shouldn’t much fear that Canada would simply abandon the commercial sealing industry in favour of CETA. Both Canada and the EU, confident enough in their respective positions, will probably allow the seal-trade ban to stand or fall on its own merits at the WTO. And when CETA comes before the 754-member European Parliament for ratification, Martin and the 100 other MEPs who intend to block it may well lack the numbers to do so.

In that case, what’s the point of their bluster and grandstanding? It might be easy to dismiss it as mere political posturing designed to burnish animal-rights credentials. However, that would be to underestimate the considerable moral force the seal-trade ban has among Europeans generally, as well as the European Parliament’s options to retain the ban in some form even if the WTO rules against it. It also would be to underestimate the damage the ban has done—not merely to the commercial sealing industry, which has suffered under a series of bans stretching back to the 1972 *US Marine Mammal Protection Act*, but also to the idea of Inuit as economic actors in the modern marketplace.

As the text of the [EU resolution banning the seal-trade](#) makes clear, the ban rests fundamentally on moral grounds. MEPs explicitly stated that “the hunting of seals has led to expressions of serious concerns ... due to the pain, distress, fear and other forms of suffering which the killing and skinning of seals ... cause to those animals.” They particularly censured “stunning” seals with “hacapiks, bludgeons and guns.” Recognizing that a number of EU states had intended to ban the seal-trade for these reasons, MEPs desired to harmonize EU trade rules and ensure their consistency with EU animal welfare requirements. After commissioning a study that concluded that, “given the conditions in which seal hunting occurs, consistent verification and control of hunters’ compliance with animal welfare requirements is not feasible in practice,” MEPs decided only a ban could suffice to protect the European consumer.

The moral value of the EU’s ban helps explain its commercial muddle-headedness. Why ban products that European consumers are already morally disposed not to buy? As MEPs put it, “since the concerns of citizens and consumers extend to the killing and skinning of seals as such, it is also necessary to take action to reduce the demand leading to the marketing of seal products and, hence, the economic demand driving the commercial hunting of seals.” The EU’s ban is designed at least as much to enforce a moral proscription among European consumers—and to suppress the commercial sealing industry in other countries—as it is to shield the European market from seal products.

Yet it’s also designed to shield the EU’s large fur-farming industry. While some EU countries, such as Austria and the UK, have banned fur farming, others, such as Denmark and Finland, are top suppliers to the [US\\$15 billion global fur industry](#). [According to the European Fur Breeders’ Association](#), EU fur farmers account for 60% of worldwide fur production, tens of millions of individual pelts, and €1.5 billion of value added to the European economy. By justifying the seal-trade ban on the grounds that seal hunting does not—and even by its very nature cannot—comport with animal welfare requirements, MEPs ensured that the ban wouldn’t

directly implicate the EU's own highly-regulated fur farmers.

At even further cost to moral clarity, MEPs [have allowed crucial exceptions](#) to the seal-trade ban through the regulations implementing it. Europeans can bring home seal products from abroad as personal souvenirs. Seal products from the “sustainable management of marine resources”—for example, from seals killed for preying on EU fish farms—can be sold. Yet more questionably, European fur brokerage firms buying and selling seal fur internationally may still tranship their commissions through the EU. Finally, “seal products which result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence” can be placed on the EU market.

In permitting these exceptions, the EU failed to distinguish between seals hunted humanely or in keeping with EU animal-welfare regulations, and seals hunted in any other manner. Peter Fitzgerald, an expert in international trade and animal law, [has argued that the WTO will likely rule](#) with Canada and Norway against the EU at least in part because of this inconsistency. For its part, Canada is also certain to argue that government regulation and monitoring ensure that seal hunting in Canada is no less humane in its own context than fur farming is in the EU. It seems in fact that Canada and Norway delayed asking the WTO to begin hearings because [they were waiting for decisions](#) on other WTO disputes that could strengthen the legal grounds for such arguments.

Even so, Inuit and other Northerners participating in the sealing industry should be wary of the future. Even if the WTO panel's decision goes against the EU, it can appeal to the WTO Appellate Body, allowing it at the very least to extend the period during which it could keep its ban active. It could also choose to compensate Canada and Norway while retaining the ban as it stands. And as Fitzgerald [and others](#) have pointed out, the EU could simply tighten up the ban by disallowing any exceptions that are inconsistent with international trade law—and with the ban's own moral basis.

Not that this would be straightforward. The exceptions and inconsistencies in the seal-trade ban probably reflect a bit of moral ambiguity on the part of MEPs and the European public generally. They also reflect commercial interests such as fur farming and fur brokerage. But if the WTO rules against the EU on the purely technical grounds that the exceptions the EU allows to its ban are incoherent, Inuit shouldn't be bothered overmuch if MEPs choose to close the exemption for seal products from Inuit hunts.

[As I've argued before](#), such an exemption is worth very little to Inuit hunters, who wish to sell their product for a fair price on an unrestricted market like any other rational economic actors. For their part, Inuit could be forgiven for failing to see why the EU would have to make a special exemption for them to profit from hunting wild seals, yet would have little complaint if they were to profit from, say, farming arctic foxes for their fur. Having adopted its ban explicitly to cripple the commercial sealing industry and destroy the value of seal pelts, the EU appears to condone the Inuit seal hunt merely as a cultural holdover from a mythical Arctic innocent of the profit motive.

All the same, the hundreds of MEPs who voted for the seal-trade ban presumably truly believe that the exemption for Inuit protects, as they described it, “the fundamental economic and social interests of Inuit communities,” as well as a culturally important hunt “recognised by the United Nations Declaration on the Rights of Indigenous Peoples.” But there's a tremendous tension between this high-minded belief and the otherwise strongly moralistic European opposition to the seal hunt. It hints at a troubling—and, it's to be hoped, simply confused and unintentional—view of Inuit and their Indigenous rights.

On this view, the traditional and subsistence Inuit seal hunt is potentially as bloody a business as the commercial seal hunt, and perhaps in aggregate not much smaller in scale. But it's morally acceptable for Inuit to profit economically from it—however humane or inhumane their weapons and methods, whether seals die instantaneously or less quickly, and irrespective of any fear or pain seals may experience. This isn't merely because Inuit happen to eat seal. After all, Europeans don't eat the fox or mink from their fur farms,

and European concern for the humane slaughter of animals presumably extends to cows, pigs and other livestock destined for the table.

Rather, on this view Inuit should be allowed to profit from the seal hunt because they have an Indigenous right to do so, which outweighs any European moral objections against “the killing and skinning of seals as such.” At its best, this should mean that Europeans realize that Indigenous economic rights—if they’re to have any value—must enable Inuit to sell seal products in accordance with their own moral precepts regarding hunting, wildlife and the proper uses of animals. But given their otherwise highly judgmental attitude, it’s hard not to conclude instead that Europeans are only willing to tolerate the Inuit seal hunt as a kind of noble savagery.

Photo credit: Sarah McNair-Landry

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Gil Theriault

Excellent article and analysis :)



Anthony Specca

- Many thanks for your well-considered comment. You make good points when you say that the views of hunters and politicians do not necessarily coincide, and that the EU's seal ban isn't the sole cause of Inuit poverty or a loss of Inuit culture. As you know from my piece above, I agree with you that opposition to the seal ban is "good politics" -- but if it is, that suggests that hunters do in fact see something wrong with it!

Certainly the seal ban has had some economic effects. While it's true that the Government of Nunavut's fur buying program has operated at a loss since the EU ban went into effect, when prices were higher it didn't. Perhaps some hunters don't worry about where the money for their pelts comes

from -- though I imagine that, in general, they wouldn't wish the GN to lose money by purchasing from them.

What's at stake here is the possibility of self-reliance -- hunters able to sell their pelts in a market that isn't artificially restricted and suppressed, rather than relying on government subsidy and the goodwill of their fellow taxpayers.

That said, I don't mean to suggest that hunters are necessarily "incensed" that they can't sell pelts on an unrestricted market -- though some of them may be. It's also worth noting that Inuit here does not necessarily mean Inuit from Nunavut only. Hunters from Greenland, for example, joined the ITK and Nunavut hunters in challenging the seal ban in EU court (where their case was dismissed in part because the judges ruled that the exemption to the ban means it doesn't affect Inuit).

In any case, thanks again for taking the time to read my piece and to share your thoughts.



Nuliayuk

This is an interesting article, as was your last one about Mac Harb's bill.

"such an exemption is worth very little to Inuit hunters, who wish to sell their product for a fair price on an unrestricted market like any other rational economic actors" - one wonders how many seal hunters actually share this wish. In my experience, the issue is "good politics" as you put it, and is often referred to to rile up a crowd around election time. The nuances of the EU seal ban are rarely if ever mentioned, including the exemption.

Instead, it's used by politicians to make a name for themselves as grand defenders of the Inuit - courageous David's to the EU's Goliath. The EU seal ban is invoked as the cause of poverty across Nunavut communities, and as a singular event which destroyed Inuit traditions and culture. This is of course nonsense, but it doesn't stop otherwise sensible and intelligent political types from frothing at the mouth when it suits their needs.

One

of the article you cite suggests that "Sales of Nunavut furs and sealskins grossed \$386, 561" at the Fur Harvesters Auction in 2011. The same article suggests that the Government of Nunavut spends \$500,000 annually on a program that purchases sealskins from Inuit hunters.

Nevermind

the fact that the program seems to operate at an annual deficit of over \$100,000 a year. Your article makes it sound as if Inuit hunters are incensed that they can't sell their wares "on an open market" as "rational economic actors". Your own cited material demonstrates that these concerned hunters are actually selling their wares at artificially high prices to the Government of Nunavut, and essentially provided a direct subsidy as their pelts are often sold at a loss on "the open market" by the GN. Open market rational actors indeed.

Let's

not confuse the wishes of the hunters with the political posturing of our "leaders".

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