

energy prices, the NEB has stipulated that exportable surplus energy had to be offered to neighboring interconnected Canadian utilities at the same price before being offered to the export market. This is an important element of NEB regulation. Recently, for example, a Quebec Hydro application was refused on the grounds that none of the exportable surplus had been offered. The question facing Canadian utilities is whether this small, but important, attempt at national market integration will be lost. A more decentralized regulatory power would undoubtedly allow more authority to major producing provinces, and at the same time lessen the economic entitlements of those Canadians who reside in provinces without the same resource base. On the other hand, the retention of the test might become a good offset to the loss of national powers to repatriate energy.

The effect of the Treaty might be more forcefully felt in provincial energy planning rather than in federal regulation. The Manitoba Limestone project, for example, was the first hydro project developed expressly for the export market. The idea was to pay for financing the megaproject through export sales, so that it would be manageable when the power was needed provincially. The logic of the Treaty runs counter to this strategy because within the FTA the US consumer gains permanent rights to proportional share of the resource base. While these rights might strengthen the case of long term continental hydro exports, as envisaged by provinces such as Quebec and British Columbia, which have the resources, it may hinder others not so fortunate. Future implementation, interpretation and enforcement of the Treaty may clarify these issues.

FTA and US utility regulation

US regulatory policy has been a major obstacle to continental electricity exports. Under the present system of regulation, US utilities may make a profit only in return for investing in capacity. Hence, importing Canadian electricity pleases consumers and regulators, but not the owners of the energy industry. US advocates of imports from Canada have argued that rules should change to allow the predominantly privately owned utilities to buy Canadian firm power contracts as a substitute for capacity investment. The FTA is silent on this issue. Since the present system offers a disincentive to import firm power, one can conclude that its effect has been to emphasize the rights of US consumers to the Canadian resource base more than it has to remove the non-tariff barriers which make it difficult for Canadian utilities to gain secure market access.

Similarly, there is no economic incentive for one utility to transport or "wheel" power from a Canadian exporter to another utility. This in itself has caused the death of one major export deal. Manitoba wanted to sell power to Nebraska. The economic basis of the trade stemmed from the substantially different electrical demand structures between the two markets. But the power had to be wheeled through two connecting states. They refused to allow the transaction, largely because it offered them no economic benefits. After intense regulatory battles the deal fell through. In theory the project represented the mutually advantageous prospects of continental trade. These sorts of problems have led to recommendations to reform regulation policy and to develop the institutions, regional plan-

ning and marketing agencies, that would be the bridge between Canadian exports and the specific needs of the numerous American utilities.

The FTA does deal specifically with one case of the wheeling problem. One of its Annexes to the Treaty provides that the Bonneville Power Authority may not discriminate against BC Hydro by refusing to wheel its power. However, the Treaty essentially gives BC Hydro domestic firm status. It does not provide any undertakings for the United States government to reform the interstate wheeling policy.

Binational regulatory consultation

The agreement provides that if the activities of any Canadian or US regulatory authority are regarded to be discriminatory or work against the principles of the Treaty, a mechanism of consultation between affected parties can be invoked. Given the wide scope of the energy agreements and the ambiguity of the word "consultational," it is hard to place meaning to these provisions. At face value it appears to be a healthy mechanism of treaty enforcement. Certainly it will be useful for Canada because of the fragmented and complicated domestic regulation of US utilities. Conversely it will also serve as a check upon the NEB and provincial regulatory decisions.

Some opportunities

There is much to be said for continental energy exports. The use by US utilities of coal and petroleum is more environmentally damaging than hydro — theirs or ours. Allowing Canadian utilities to fully utilize the expensive and publicly-paid-for hydro generating capacity by exporting surpluses reduces the cost for all. This is good economic sense. There is a simple rational intelligence to the use of hydro for such purposes. Vulnerability problems on international energy markets have translated into central elements of US foreign policy. The reliable availability of Canada's resources has always underscored and perhaps overshadowed the economic and environmental reasons for a continental energy policy.

There are limits and costs. The Free Trade Treaty represents a new political framework for continental integration. It will invite a new definition of continental relationships. Much of this relationship will be the product of political debate about the costs and advantages of new trade. For example, Robert Bourassa has written extolling the virtues of the Grand Canal, a plan to export water from James Bay to water deficient areas of the continent. The damming of James Bay would allow the water to be used for energy before being diverted and pumped into the Great Lakes. There are other such schemes. "Not a chance!" you say? Premier Bourassa might well reply that his own existing James Bay development had its share of skeptics. But look what happened. Not only did James Bay hydro get built, but its power was soon being exported, contrary to original intentions. And now that earlier James Bay experience will be repeated three or four times.

Simon Reisman, before becoming the Canadian negotiator for the FTA, supported offering water to the Americans. The present Treaty could be a frame work for such trade. By the same token, one could expect Atomic Energy of Canada