

BROOKINGS

Testimony of
Dr. Charles K. Ebinger
Senior Fellow, Energy Security Initiative
The Brookings Institution

U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Energy and Power Hearing on
“The Energy Policy and Conservation Act of 1975:
Are We Positioning America for Success in an Era of Energy Abundance?”

December 11, 2014

Thank you Mr. Chairman, before commencing I want to thank you and the Committee for inviting me to testify this morning on the origins of the crude oil export ban which was enacted nearly 40 years ago during my first job as a Foreign Affairs Officer in the Federal Energy Administration’s Office of International Energy Affairs. Given the profound changes that have occurred in unconventional oil and gas production over the last 6 years, it is critical to look back and remind ourselves how the energy situation in the United States has evolved since 1975.

History of the Crude Oil Export Ban

During the 20 years prior to the Organization of Arab Petroleum Exporting Countries (OAPEC) Oil Embargo of 1973-1974, the chief issues dominating US energy policy were that of nuclear power (especially the pros/cons of developing the breeder reactor), price controls on domestic natural gas and oil, and limitations on oil imports through both a Voluntary Oil Import program (1957-1959) and a Mandatory Oil Import Program (MOIP) (1959-1973.) Also of great policy

concern at the time was the plight of the domestic coal industry, especially in Appalachia. In reviewing this history, what stands out is that, just as is the case today, most energy issues were discussed in isolation from one another.

Between 1950 and 1960 natural gas consumption in the residential and commercial sectors rose by 160% compared to an 80% rise in oil usage and a two thirds fall in coal consumption.¹ The proportion of homes heated by natural gas rose from 25% to nearly 40%, and the use of natural gas in electric power generation nearly tripled.² By the early 1960s as a result of surging gas consumption, natural gas, which had been viewed as a byproduct of oil production, became a commodity of interest in its own right.

Prior to the early 1970s, the government effectively supported a domestic price for oil above the international or free market price. Concerns about “oil security” which had been prominent in earlier periods arose again on the domestic energy agenda in the mid-1950s as a huge glut of cheap oil imports from the Middle East, North Africa, and Venezuela threatened to drive down domestic prices, leading to a fall in oil production. This in turn as oil demand skyrocketed lead to a new onslaught of cheap imported oil. There was grave concern that since these supplies were coming from unstable regions of the world that this oil import dependency could lead to military intervention if the continuation of imported oil supplies were threatened.

However by the early 1970s concerns about rising inflation, largely owing to the escalating costs of the Vietnam War, became more important than the alarm over rising oil imports. This lead the easing of oil import restrictions and in August 1971 the enactment of price controls designed to keep domestic oil below world prices. During this time, President Nixon’s economic policies led to a devaluation of the dollar which negatively affected OPEC revenues from dollar denominated oil sales on the world market. That same month, the President removed the convertibility of the

¹ Martin Greenberger, “Caught Unawares: The Energy Decade in Retrospect,” Ballinger Publishing Company, 1983.

² Ibid.

dollar into gold. The following year the US dollar was devalued again putting further downward pressure on OPEC revenues.

On the geopolitical front, the early 1970s saw momentous changes as the major oil producing countries in response to a decline in real oil prices mounted a unified campaign against the petroleum companies to extract more of the economic rent from their oil production. Under the Tehran and Tripoli agreements between the international oil companies and OPEC, the host countries were able to boost their revenues both by increasing the “posted price” as well as increasing the tax rate on the companies. Previously the “posted price” was used to calculate the price that would be paid by producers. The “posted price” or taxed price was higher than the actual market price paid by the international oil companies for the oil. After Tehran and Tripoli, OPEC was able to introduce an escalation clause in its contracts that it believed would protect their members from inflation. This, however, failed to stem the tide; as prices continued to rise on the world market largely owing to surging demand in the US. Hardly was the ink dry on one contract before OPEC made new demands for further upward price revisions.

As tumultuous as these times were, it is fascinating to realize that as late as June 1973 Saudi Arabian oil was still posted at \$2.80/bbl, albeit in percentage terms up dramatically from \$1.80/bbl in 1970.³ By the summer of 1973 tensions were boiling as OPEC became more and more concerned that the international oil companies were manipulating international product prices in a manner that was detrimental to their interests. By September, events reached a boiling point as OPEC demanded a renegotiation of the Tehran and Tripoli agreements. With the outbreak of the Yom Kippur War, negotiations broke down and a few days later the six Gulf producers announced a 70% increase in the price of Arabian light oil to \$5.12/bbl—a staggering price increase.⁴ This was followed by production cutbacks in response to the US resupply of weapons to Israel following the outbreak of the Arab Israeli war and the announcement of an oil embargo against the US, Portugal and the Netherlands.

³ Martin Greenberger, “Caught Unawares: The Energy Decade in Retrospect,” Ballinger Publishing Company, 1983.

⁴ Ibid.

Mr. Chairman, given the current glut of oil on the world market relative to demand, it is worth noting that global market conditions in the early 1970s could not have been more different than they are today. Demand for oil throughout the industrialized world was skyrocketing. GNP growth rates in 1973 averaged 5.4% in Western Europe and 10.4% in Japan.⁵ Fuel consumption in Japanese industry was 30% higher in October 1973 than a year previously. In the US, domestic production had peaked in 1970, leading a Cabinet Task Force to recommend the gradual elimination of the quotas under MOIP, discussed above, out of concern that they were costly to US consumers and did little to protect national security. In retrospect, it is remarkable that this recommendation came at the same time as US oil consumption was skyrocketing, domestic production was peaking, and oil imports were up to nearly 30% of US oil consumption.

The US could not have been more ill-prepared for the 1973 Oil Embargo. In response, one of the primary actions taken was the creation of the Federal Energy Administration which was immediately charged with administering oil prices and allocation controls. Unfortunately these were so ill conceived that they only accentuated the impact of the crisis and exacerbated gasoline shortages, causing long lines of angry motorists buying highly regulated volumes of fuels often on odd and even days of the month.

The Energy Policy and Conservation Act of 1975

In response to the crisis, President Nixon launched “Project Independence,” designed to eliminate oil imports by 1980 and comprising a host of initiatives including the Energy Policy and Conservation Act (EPCA) of 1975 whose possible modification or rescission is the primary issue of today’s hearing. Under the EPCA, the President through the Secretary of Commerce was granted the authority to restrict exports of coal, petroleum products, natural gas, petrochemical feedstocks and supplies of materials and equipment for the exploration, production, and refining or transportation of energy supplies. The EPCA also authorized the President through the

⁵ Ibid.

Secretary of Commerce to exempt crude oil and natural gas exports from such restriction where he/she deems doing so to be in the national interest. As the act today only relates to crude oil, the main exemptions that have been made are for shipments to Canada and Mexico in recognition of our historic trading relationships. The EPCA requires quarterly reports to Congress on any exemptions on this general export ban. Since the Act was passed there have been a number of exemptions to the crude oil export ban, included at the end of my remarks as Annex 1.

Today, through modifications to the EPCA, the US allows unrestricted exports of coal, petroleum products and petrochemical feedstocks, and on a case-by-case basis allows the export of natural gas. The only expressed ban that remains in place is that on crude oil exports.

Project Interdependence

By the time President Ford released his energy plan in November 1974, energy policymakers were aware that under no political circumstances could the US become totally energy self-sufficient at any reasonable economic cost. President Ford launched bold initiatives: creation of a 300 million barrel Strategic Petroleum Reserve (SPR), a (in my opinion misguided) tariff on imported oil, attempts to decontrol domestic oil and natural gas prices, and the authority to order major power plants to convert from oil and gas to coal (a legacy that continues to plague our environmental policy to this day). Despite a declared policy of reducing US oil imports between 1973 and 1977, crude oil imports rose from 3.2 mmbd to 6.6 mmbd with OPEC's share rising from 48.7% to 70.4% while OPEC's share rose from 14.7% to 36.1%.⁶ In reality our dependence was even higher since a large volume of imported petroleum products from Caribbean refineries used feedstock from OPEC and OPEC producers that were not included in import volumes from these oil producing countries.

⁶ Charles K. Ebinger, "The Critical Link: Energy and National Security," Ballinger Publishing Company, 1982.

National Energy Plans 1 & 2

To deal with the energy crisis, President Carter unveiled his first National Energy Plan in April 1977, the basic objective of which was to reduce reliance on oil imports from 1985 projected levels of 16 mmbd to 6 mmbd. To achieve this goal, the NEP supported greater reliance on coal and energy conservation until renewable energy resources could be developed. At this time, the Carter Administration viewed nuclear energy as an energy resource of last resort. The SPR was expanded to 1 billion barrels. While many legislators agreed that higher oil and natural gas prices (still under price controls) were needed to encourage conservation, they could not agree on how high prices should go or who should benefit from the increases. The debate centered on several important questions: Should US oil be priced the same as that in the world market as determined by OPEC? Should the appropriate price be the replacement cost of a depletable resource? What is the valid measure of replacement cost? Is a price based on production cost plus a fair rate of return more appropriate than a price based on replacement cost? Debates on proposals for a wellhead tax and continued price controls focused on the fundamental question of who should benefit from oil prices. The Carter Administration argued that the uncontrolled price for newly discovered oil which had been passed provided enough incentive to foster new exploration and production and that the oil industry should not be allowed to recoup windfall profits from existing reserves which had cost them very little. In contrast, the oil industry argued that part of the tax should be rebated to provide for investment in new more expensive exploration and to foster the development of high cost alternative energy resources by the oil industry.

Mr. Chairman, it was not only how to deal with the oil industry where Congress was at an impasse; President Carter opposed the decontrol of natural gas, which not only curtailed the development of the Alaskan gas pipeline, effectively closing off 10% of the nation's perceived natural gas resources at the time, but also led to a rancorous confrontation on the price we would pay for gas from Mexico and Canada as well as Alaska, further cutting off supplies as a gas crisis loomed on the horizon.⁷ Ironically these self-inflicted wounds and the perception of a

⁷ Ibid.

natural gas shortage led not only to a major gas crisis in the winter of 1976-1977 but to also the passage of other legislation that has made a major contribution to the intractability of some aspects of energy policy to this day.

The December 1978 passage of the National Energy Act, which included the Natural Gas Policy Act, the Power Plant and Industrial Fuel Use Act and the Energy Conservation Policy Act, was heralded as a major step in reducing US dependency on imported oil. In reality, most of the provisions had only a marginal impact on the way Americans produced and consumed energy, while others such as the Power Plant and Industrial Fuel Use Act actually increased oil imports by limiting the use of natural gas, which was deemed as “too noble” a fuel to be used in power plants and industrial boilers. Mr. Chairman, given that natural gas production at the wellhead has been booming since 2008 and the fact that it has taken over much of the nation’s electric power sector suggest how quickly the domestic market can respond when the proper price signals are in place. Given that natural gas is now being talked about as a major transportation fuel in 18 wheel trucks, railroad locomotives, and maritime trade and as CNG, methanol, and LNG the folly of thinking that regulation and restrictions on vital global commodities makes any economic sense should be apparent. Please realize that this same misguided thinking on keeping crude oil exports restricted will one day be shown to have been wrong once the ban is lifted.

Lessons from Failed Energy Policy Initiatives

In reviewing the history of US energy policy since the early 1970s, it is apparent that whenever the US government has tried to favor a particular fuel absent market realities there have been unintended consequences which have been deleterious to the US economy and US energy security. Controls on gas prices led to the failure to develop the Alaska Natural Gas Transportation Systems (ANGTS), massive natural gas shortages with devastating economic impact on the industrial Midwest and a switch away from gas and oil towards coal in both the power generation sector and in industrial boilers. This rush towards coal has led to scores of aging coal facilities that now have to be replaced as part of our national environmental policy and our international climate policy.

Perceptions that the US was running out of oil along with continued price controls throughout the 1970s led to a protracted debate on whether to allow the export of Alaskan oil even though the economics were overwhelmingly in favor. Price controls while in effect also constrained domestic oil production in high cost areas such as the Outer Continental Shelf, though clearly environmental policy concerns also played a role.

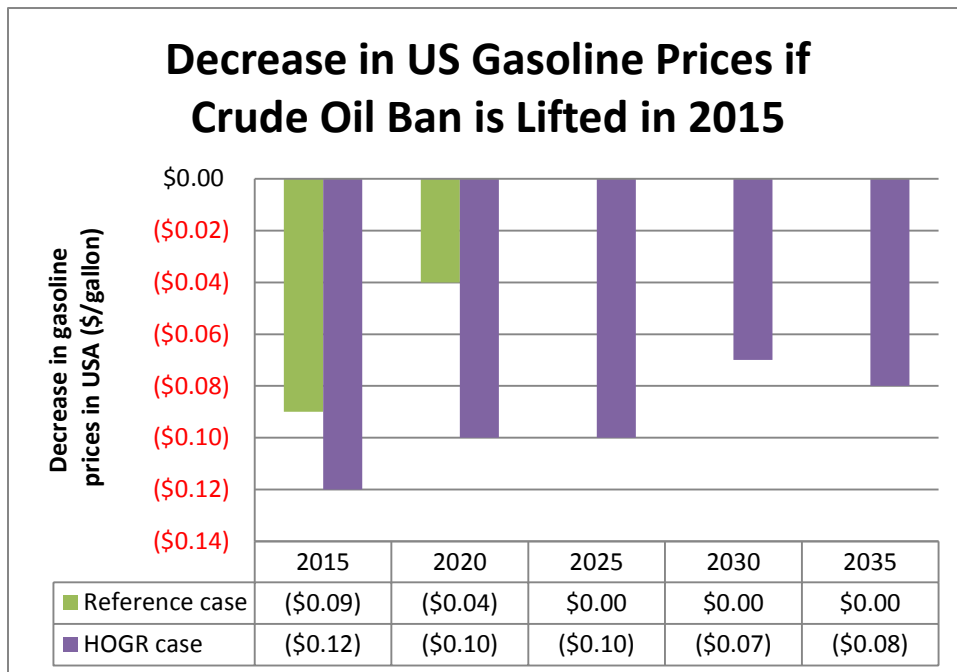
Prior to the removal of oil price controls by President Reagan, the multi-tiered pricing system for domestic oil created inefficiencies in the market as well as outright fraud by a few oil companies and traders that led to a major waste in resources as well as the construction of so called “tea-kettle refineries” that served no economic or public policy purpose but rather perpetuated a distorted national energy policy. Furthermore, continuation of the Jones Act and proposals to require that if the crude oil ban is lifted that the Congress should require the use of Jones Act vessels for all export cargoes makes no economic sense and should be rejected out of hand. The Jones Act for far too long has been a thorn in the side of a coherent US energy and economic strategy and is at sharp odds with the US’ long standing commitment to free trade.

Economic Benefits of Lifting the Ban on Crude Oil Exports

Mr. Chairman, it is evident that the energy situation the US is in today is far different from the one it was in when the EPCA was enacted. With crude oil production continuing to rise in the US, it would be detrimental to US energy and economic policy to keep the ban on crude oil exports in place. Keeping the ban in place and attempting to manipulate policy to control a globally traded commodity with hopes that the US oil boom will lead the US to energy independence is a fallacy, as the US is part of the global market and therefore must participate in it; otherwise significant benefits will be forgone, as outlined below:⁸

⁸ The following data is taken from: Charles Ebinger & Heather L. Greenley, “[Changing Markets Economic Opportunities from Lifting the U.S. Ban on Crude Oil Exports](#),” Brookings Institution Energy Security Initiative, September 2014, in conjunction with data from NERA Economic Consulting, “[Economic Benefits of Lifting the Crude Oil Export Ban](#),” prepared for The Brookings Institution, 2014.

- Lifting the ban on crude oil exports from the United States will boost US economic growth, wages, employment, trade and overall welfare. For example, the discounted net present value of gross domestic product (GDP) through 2039 has the potential to be between \$600 billion (EIA's reference case) and \$1.8 trillion (EIA's High Oil and Gas Resource case), depending on how soon and how completely the ban is lifted.
- Benefits are greatest if the US lifts the ban in 2015 for all types of crude. Delaying or allowing only condensate exports lowers benefits by 60 percent relative to a complete and immediate removal of the ban. If oil and gas supplies are more abundant than expected, allowing only condensate exports lowers the benefits by 75 percent relative to completely lifting the ban. The chief reason for this is that the greatest increase in light tight oil (LTO) production comes in 2015. Therefore, a delay would forego significant benefits.
- Lifting the ban actually lowers gasoline prices by increasing the total amount of crude supply. The decrease in gasoline price is estimated to be \$0.09 per gallon in 2015, but if oil supplies are more abundant than currently expected, the decline in gasoline prices will be larger (\$0.07 to \$0.12 per gallon) and will continue throughout 2035.



- Permitting the export of crude oil will enhance US global power in several ways, including: reinforcing the credibility of US free and open market advocacy; allowing for the establishment of secure supply relationships between American producers and foreign consumers; increasing flexibility to export crude to others to address supply disruptions; empowering another non-OPEC nation to meet the growing energy demands from countries in Asia, as well as other rapidly developing nations; shifting oil rents to the US from less reliable suppliers; and providing our own hemisphere with a competitive source of crude supply. Most importantly, allowing crude oil exports will increase revenues to domestic producers helping to maximize the scope of the production boom, while boosting American economic power that undergirds US national power and global influence.

Allowing crude oil exports in any fashion will have positive economic affects both in the US and in the world oil market. At the same time, world energy security will be enhanced by increasing the diversification of oil supply available globally, while also increasing US energy security.

Lifting the ban generates paramount foreign policy benefits, increases US GDP and welfare and reduces unemployment, all of which will be forgone if the ban remains in place.

Conclusions

Mr. Chairman, as your committee deliberates whether to lift the current ban on crude oil exports I think it is vital to keep several things in mind:

1. When the ban was enacted, US oil imports were skyrocketing in stark contrast to today where oil imports are falling, and domestic oil prices, owing to price controls, were lower than the international price of oil. If the US had not put the ban in place, US oil producers would have had a strong incentive to sell into the international market to get a better price for their oil. Today the situation is similar; with the ban in place, producers in areas such as the Bakken do not have access to pipelines and as a result have had to discount their oil to account for the higher costs of transportation by rail, barge, and truck. However, if they were able to export their oil, despite these higher transportation costs, they could

command higher prices, generating higher profits which they could then bring back and use to look for more oil and gas here in the US, generating an economic stimulus while lowering unemployment.

2. There is currently no outright ban on any other energy commodities in the US including: coal, natural gas, petroleum products, NGLs, uranium etc. Maintaining a ban on crude oil exports is inconsistent with US policies on other energy exports and, moreover, the US long standing position on free and open international markets.
3. Contrary to popular opinion, gasoline prices will not increase if the ban is lifted—in fact, they are likely to fall. In addition to the economic study Brookings has conducted on this issue, at least 5 other major studies⁹ have similarly concluded that gasoline and other critical commodities such as home heating fuel prices will fall if the ban is lifted albeit by modest amounts. This owes mainly to the fact that the price of oil and gasoline is set in the international market. Furthermore, as stated, the US already exports gasoline without any disruption to gasoline prices, again because this price is set globally. It is illogical to ignore the fact that the US is part of the international market.
4. The infrastructure in the US is not equipped to refine and process the type and amount of oil produced domestically. Much of this oil is from unconventional production and termed light tight oil, much of which cannot be processed in US refineries without substantial capital investment because US refineries were designed to process heavier crudes. Refiners are reluctant to make these sizeable investments given projections of flat to declining US petroleum demand. Since June 2014 the surplus of oil has been driving down crude oil prices by 30%.¹⁰ Meanwhile, the international demand for crude oil and

⁹ See reports by IHS International, the Congressional Research Service, ICF International, Resources for the Future, and Barclays.

¹⁰ Jack Stubbs and Ahmed Aboulenein, “Oil steadies around \$80 as Iran deadline extended,” *Reuters*, November 24, 2014. <http://in.reuters.com/article/2014/11/24/markets-oil-idINKCN0J818H20141124>

petroleum products are continuing to fall. Therefore if the US allows the export of crude we will see a further decline in prices putting much needed excess revenue in the hands of US consumers and US industry instead of unnecessary spending on refinery upgrades..

Mr. Chairman, there is no useful purpose in prolonging the current ban on crude oil exports. As I noted, we no longer have any restrictions on any other energy source including petroleum products such as gasoline. We have a crude oil surplus of very light crudes which cannot be used in many of our refineries that were designed to use heavy crude oil imports from Venezuela, Mexico, and the Middle East without sizeable capital investments. With future demand for petroleum products in the US projected to be flat or declining, many refiners are reluctant to make these investments for fear they will not be recovered in the marketplace. We have major allies and trading partners who desperately want access to this oil as they see us as an important source of diversification from more politically volatile regions of the world. Lifting the ban will improve our trade balance and produce jobs for Americans on a sustained basis.

I thank you Mr. Chairman, and I hope I have provided some interesting background on how and why the current ban on crude oil came into place and why given changed market circumstances there is no justification for keeping it. The world we live in today could not be more different than in 1975. Unlike the rising level of oil imports we saw in 1975, today imports are falling and are likely to continue. When the ban was passed in 1975, US domestic oil supply was falling. Today, trends point in the opposite direction—according to the EIA’s high growth scenario, the United States is set to produce 13.3 mmbd by 2035.¹¹ Today OPEC has far less control of crude prices as a variety of non-OPEC oil producers actively compete in the market. Unlike 1975, when areas such as New England were heavily dependent on oil and imports and thus had their economies ravaged, today the overwhelming use of oil in America is in the transportation sector where demand is falling owing to new fuel economy standards. Additionally, unlike 1975, when our truckers saw the cost of diesel skyrocket threatening independent truckers with bankruptcy,

¹¹ “Annual Energy Outlook 2014,” *U.S. Energy Information Administration*, April 2014.
[http://www.eia.gov/forecasts/aeo/pdf/0383\(2014\).pdf](http://www.eia.gov/forecasts/aeo/pdf/0383(2014).pdf)

today we have the prospect that with the proper policies we could over time replace this diesel with LNG, further reducing our oil imports by nearly 2 mmbd. At the same time as President Obama's new fuel economy standards ripple throughout the economy over the next decade we will see demand for gasoline drop by nearly another 2mmbd.

In light of the above factors, Mr. Chairman, I can see no justification for continuing the current ban on crude oil exports and urge you to lift it in its entirety.

Thank you Mr. Chairman for this opportunity to address the Committee; I would be delighted to take questions.

Annex 1¹²

Presidential Allowances for Crude Oil Exports

Exports to Canada, 1985

President Reagan found unlimited exports of U.S. crude oil to Canada to be in the national interest, especially since simultaneously Prime Minister Mulroney removed price and volume controls on crude oil exports to the United States.¹³ Internal White House memoranda emphasize that imports of Canadian crude oil replace crude oil imports from unreliable and unstable sources.¹⁴ These memoranda note that lifting restrictions on crude exports is a “logical extension of the special treatment which historically has been accorded Canada under U.S. export controls”¹⁵ and that the United States and Canada’s energy markets and needs are interrelated.¹⁶

Exports from Alaska’s Cook Inlet, 1985

President Reagan found that unrestricted exports from Cook Inlet would be in the national interest because they would encourage other countries to remove trade barriers to related domestic goods and services. He also found that crude oil from Alaska’s Cook Inlet was advantageously located for export trade.¹⁷

Exports of 50,000b/d of ANS to Canada, 1989

President Reagan saw the allowance of this limited amount of ANS crude oil to be exported to Canada as another means to promote free trade between the United States and Canada even

¹² The following is taken from: Charles Ebinger & Heather L. Greenley, “[Changing Markets Economic Opportunities from Lifting the U.S. Ban on Crude Oil Exports](#),” Brookings Institution Energy Security Initiative, September 2014

¹³ 50 Fed. Reg. 25189, 18 June 1985.

¹⁴ William T. Archey and Jan W. Mares, “U.S. Crude Oil Exports,” White House Staffing Memorandum to President Reagan, 29 May 1985.

¹⁵ William T. Archey, Acting Assistant Secretary for Trade Administration, Department of Commerce & Jan W. Mares, Assistant Secretary for International Affairs and Energy Emergencies, “U.S. Crude Oil Exports to Canada,” Department of Energy, U.S. Government, 2 May 1985.

¹⁶ Ibid.

¹⁷ 50 Fed. Reg. 52798, 26 December 1985.

though exports of ANS were still prohibited by the MLA as they were transported over the Trans-Alaskan Pipeline, which crossed over federal rights-of-way.¹⁸

Exports of 25,000b/d of California Heavy, 1992

In 1992, President Bush allowed 25,000b/d of California heavy crude oil to be exported, because, “California independent oil producers [were] suffering financial losses due to the surplus of heavy crude oil in the California market and their lack of alternative marketing options.”¹⁹ Additionally, he noted available supply of heavy crude oil exceeded refinery capacity.²⁰ While exports of California heavy crude oil were viewed as helping independent oil producers, the effect of t such exports on the domestic maritime industry proved to be a major concern. Under the Jones Act, U.S. flag vessels are the only ones permitted to transport California oil to other U.S. destinations, such as the Gulf Coast, for refining by domestic refiners.²¹ Some officials in the Bush Administration feared the U.S. maritime industry would lose business, potentially leading to unemployment, since foreign vessels were then able to transport California heavy crude oil destined for foreign ports.²²

Exports of Alaska North Slope Crude (ANS), 1996

President Clinton allowed unlimited exports of ANS crude to any destination after an interagency review conducted by the National Economic Council and the Bureau of Export Administration found that such exports would not have a significant impact on the economy or the environment. The exports, however, were approved subject to very specific requirements; namely, that the crude oil is exported on U.S. registered and crewed vessels and the vessels adhere to specific export routes.²³

¹⁸ 54 Fed. Reg. 271, 5 January 1989.

¹⁹ Susan Collins, “EPC Meeting on Oil Exports,” 28 November 1989.

²⁰ Ibid.

²¹ The Jones Act, which is formally known as the Merchant Marine Act of 1920, 46 U.S.C. § 55102, among other things, prohibits vessel transportation of merchandise from one U.S. port to another U.S. port unless the vessel is a U.S. flag vessel – that is it is owned by a United States citizen and documented under the laws of the United States.

²² Council of Economic Advisers Memorandum from Michael Boskin to Susan Collins (Sutherland FOIA Material) page 1.

²³ Presidential Memorandum of 26 April 1996, *Exports of Alaskan North Slope (ANS) Crude Oil*.

Other Export Transactions

California Heavy Crude

Pursuant to President Bush's national interest finding, BIS is empowered to grant licenses for exports of California heavy crude oil if the exporter can demonstrate that its crude oil was produced in California, has a gravity of 20 degrees API or lower, and the average volume of such California heavy crude oil exported per day from the United States does not exceed 25,000 barrels.²⁴

With respect to the limit of 25,000 barrels, BIS takes a first-come-first-serve approach, in which it will grant licenses to export California heavy crude oil in the order the license applications are received with the total quantity authorized for any one license not to exceed 25 percent of the annual authorized volume of California heavy crude oil exports.²⁵

Exporters receiving license to export California heavy crude oil must export such crude oil within 90 calendar days after the license is issued and, within 30 days of any export; exporters must provide BIS with a certified statement confirming the date and quantity of crude oil exported.

Alaskan ANS Crude

Unlike California heavy crude oil, exports of ANS crude can be exported freely without a license, but such exports must adhere to specific export requirements. First, ANS crude oil must be transported on a vessel documented under the laws of the United States and such vessels must use the same route employed for shipments to Hawaii until they reach a point 300 miles due south of Cape Hinchinbrook Light and then at that point, must remain outside the 200 nautical

²⁴ 15 C.F.R. § 754.2(g).

²⁵ 15 C.F.R. § 754.2(g)(5).

mile Exclusive Economic Zone.²⁶ Returning vessels from foreign ports to Valdez, Alaska must conform to the same route restrictions.

Additionally, owners and operators of vessels exporting ANS must adopt a mandatory program of deep water ballast exchange, must ensure their vessels are equipped with satellite-based communications systems that will enable the Coast Guard independently to determine the vessel's location, and must maintain certain records.

²⁶ 15 C.F.R. § 754.2(j).

Key Facts

Situation in 1975 and the EPCA

- Demand for oil throughout the industrialized world was skyrocketing.
- In the US, domestic production had peaked in 1970, leading a Cabinet Task Force to recommend the gradual elimination of the quotas under MOIP, discussed above, out of concern that they were costly to US consumers and did little to protect national security.
- The US could not have been more ill-prepared for the 1973 Oil Embargo.
- Creation of the Federal Energy Administration which was immediately charged with administering oil prices and allocation controls.
- Unfortunately these were so ill conceived that they only accentuated the impact of the crisis and exacerbated gasoline shortages, causing long lines of angry motorists buying highly regulated volumes of fuels often on odd and even days of the month.
- Under the EPCA, the President through the Secretary of Commerce was granted the authority to restrict exports of coal, petroleum products, natural gas, petrochemical feedstocks and supplies of materials and equipment for the exploration, production, and refining or transportation of energy supplies.

Situation Today

- Today, through modifications to the EPCA, the US allows unrestricted exports of coal, petroleum products and petrochemical feedstocks, and on a case-by-case basis allows the export of natural gas. The only expressed ban that remains in place is that on crude oil exports.
- In reviewing the history of US energy policy since the early 1970s, it is apparent that whenever the US government has tried to favor a particular fuel absent market realities there have been unintended consequences which have been deleterious to the US economy and US energy security.
- Contrary to popular opinion, gasoline prices will not increase if the ban is lifted—in fact, they are likely to fall.
- The US has a crude oil surplus of very light crudes which cannot be used in many of our refineries that were designed to use heavy crude oil imports from Venezuela, Mexico, and the Middle East without sizeable capital investments.
- Today, trends point in the opposite direction—according to the EIA's high growth scenario, the United States is set to produce 13.3 mmbd by 2035. Today OPEC has far less control of crude prices as a variety of non-OPEC oil producers actively compete in the market.