



Mike Sommers
President & Chief Executive Officer
American Petroleum Institute
1220 L Street, NW
Washington, DC 20005-4070

August 22, 2018

The Honorable Chuck Grassley
Chairman, Senate Judiciary Committee
Washington, DC 20510

The Honorable Bob Goodlatte
Chairman, House Judiciary Committee
Washington, DC 20515

The Honorable Dianne Feinstein
Ranking Member, Senate Judiciary
Committee
Washington, DC 20510

The Honorable Jerry Nadler
Ranking Member, House Judiciary
Committee
Washington, DC 20515

Dear Chairmen and Ranking Members of the House and Senate Judiciary Committees:

The American Petroleum Institute (API)¹ opposes House and Senate NOPEC legislation (H.R. 5904 and S. 3214), No Oil Producing and Exporting Cartels (NOPEC) Acts of 2018, currently under consideration by your committees. We see these bills as creating significant detrimental exposure to US diplomatic, military and business interests while having limited impact on the market concerns driving the legislation.

Cartels for any commodity are harmful to consumer interests, and this effort to restrict the market impact of OPEC nations is well-intended. However, the legislation threatens serious, unintended consequences for the U.S. natural gas and oil industry and its continued success in eroding OPEC's negative market impacts. U.S. crude oil production has reached record highs this year, helping to put downward pressure on gasoline prices for U.S. consumers and substantially diminishing the influence of OPEC nations — two of the bills' primary goals. In several ways, NOPEC legislation jeopardizes U.S. companies' ability to sustain progress in achieving these objectives.

These legislative efforts represent a political act aimed at removing a sovereign nation's litigation immunity from certain US laws and opens the opportunity for reciprocal or even additional action on the part of those impacted countries. This would clearly have a negative impact on our country's presence in those countries at all levels, which, given their existing geopolitical importance and capacity for US investment, could create significant unintended consequences.

This potential cost is even more concerning to our members for two other reasons. First, the current Sherman Antitrust Act already covers the commercial activities of nations even for activity that takes place abroad.

¹ API is a national trade association representing over 625 member companies involved in all aspects of the oil and natural gas industry. API's members include producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. API member companies are leaders of a technology driven industry that supplies most of America's energy, supports more than 9.8 million jobs and 8 percent of the U.S. economy, and since 2000 has invested nearly \$2 trillion in U.S. capital projects to advance all forms of energy.

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There is no need to create international concerns for situations already addressed. Second, the apparent focus on the legislation — improper influence on energy markets — has been mitigated significantly in recent years. The success of America's oil and natural gas industry coupled with continued integrations with our NAFTA partners has significantly increased the energy security and self-sufficiency of the United States. This energy renaissance has made America much less susceptible to efforts that may be undertaken by foreign organizations like Oil Producing Exporting Countries (OPEC).

Therefore, legislative efforts that strengthen American energy production would be the best approach to insulate our markets from improper influence, and we would welcome the opportunity to work with you achieve those goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Sommers", written in a cursive style.

Mike Sommers
President and Chief Executive Officer
American Petroleum Institute

Cc: Members of the House and Senate Judiciary Committees

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

NEIL L. B RADLEY

EXECUTIVE VICE PRESIDENT & CHIEF POLICY OFFICER

1615 H STREET, NW WASHINGTON, DC 20062

(202) 463-5310

September 10, 2018

The Honorable Chuck Grassley
Chairman
Committee on Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein,

The U.S. Chamber of Commerce opposes S. 3214, the No Oil Producing and Exporting Cartels Act (NOPEC), which would amend the Sherman Act to waive sovereign immunity defenses that might otherwise be used to defend against antitrust claims brought before the United States courts.

The U.S. Chamber is unalterably opposed to anti-competitive conduct in commercial markets by foreign states and their agents.

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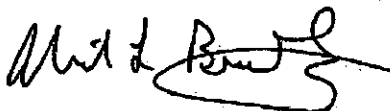
However, S. 3214 ignores the legal and policy complexities at play when a nation-state engages in or directs commercial conduct. Antitrust cases involving nation-state commercial activity can already be brought under existing law and the proposed legislation would prohibit the courts from carefully evaluating sovereign immunity claims.

Although S. 3214 is intended to be limited to restraint of trade in oil, natural gas or petroleum products, the Committee should be wary of the precedent it could create. Once sovereign immunity has been eliminated for one action of a state or its agents, it can be eliminated for all state actions and the actions of agents of the state.

Under reciprocal legal regimes the United States and its agents throughout the world could be tried before foreign courts – perhaps including the military– for any activity that the foreign state wishes to make an offense.

Moreover, this legislation overlooks that American industry has led the United States to becoming the leading global energy producer again, which has not only increased geopolitical leverage across the globe, but has also provided greater insulation against price swings at home.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil L. Bradley", with a stylized flourish at the end.

Neil L. Bradley

CC: Members of the Senate Committee on the Judiciary