



# Trade deals seen as avenue for energy exports

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May 8, 2015

Would-be energy exporters are eyeing a pair of large free-trade deals as a way to send natural gas overseas, potentially removing obstacles that the industry contends hinders its market access.

Barriers for shipping liquefied natural gas abroad would almost certainly come down under the Trans-Pacific Partnership, a free-trade agreement being negotiated by the United States, Japan and 10 other nations, and the Transatlantic Trade and Investment Partnership, a trade deal with the European Union that is in its early stages.

Under federal law exporters can send natural gas to nations that have a free-trade agreement with the U.S. "without modification or delay." Currently, though, countries such as Japan — the world's top liquefied natural gas importer — lack such an agreement with the U.S.

That means the Energy Department must determine whether such exports are in the public interest, a process that the industry, Republicans and Democrats alike say takes too long.

"One of the big reasons why the Japanese agreed to do this is access to U.S. LNG, and it's always been known," Scott Lincicome, a trade attorney and adjunct at the libertarian CATO Institute, told the *Washington Examiner*.

Republicans also see the debate over whether to grant Trade Promotion Authority, or "Fast Track," to President Obama to hammer out trade deals — which would allow him to offer the deal for an up-or-down vote in Congress without revisions — as an ideal time to press for ending a 40-year-old ban on crude oil exports.

"I think it's a great talking opportunity, at a minimum," said Senate Energy and Natural Resources Committee Chairwoman Lisa Murkowski, R-Alaska, who says she will introduce legislation to end crude export restrictions next week. She added she might offer an amendment to lift the export ban on the Trade Promotion Authority bill.

The European Union has specifically asked for a separate energy chapter in its free-trade deal in hopes of accessing U.S. crude, according to leaked drafts.

"It's very clear in the European case," said Scott Slesinger, legislative director with the Natural Resources Defense Council. "They want very specific language that does allow unrestricted export of energy."

That would require a substantive change in U.S. policy that the Obama administration hasn't been keen to make. Energy Secretary Ernest Moniz has consistently said exporters haven't made a good case for loosening restrictions when the U.S. still imports about one-third of the oil it consumes, though export advocates have argued the ban violates World Trade Organization rules.

The export ban was instituted to shield the U.S. from supply shocks following the 1973 Arab oil embargo but has come under pressure from some Republicans who say the recent surge in domestic oil production renders the policy obsolete.

But opening the borders to liquefied natural gas exports under free-trade deals is harder to stop because current law already provides for it. Environmentalists who believe the Energy Department should be able to review such exports don't know how to get the White House to change course.

"It has barely even been a conversation that we have been engaging, and it is basically assumed at the [U.S. Trade Representative] that there will be automatic exports," Ilana Solomon, trade representative with the Sierra Club, told the *Examiner*.

The free-trade deals would "make permitting of U.S. exports of LNG to free trade agreement partners easier," Trevor Kincaid, a spokesman at the U.S. Trade Representative, told the *Examiner*. Environmental groups have been pushing for a specific exemption for natural gas exports in the free-trade agreement, but the U.S. Trade Representative appears to oppose that idea.

"As I'm sure you know, requests for exports to [free trade] partners are given preferential treatment in the DOE application process," Kincaid added. "But nothing contemplated in [the coming free-trade deals] would change the Natural Gas Act, U.S. environmental laws or affect the ability of U.S. regulators to regulate energy production to protect the environment."

Environmental groups worry expanding exports would encourage more hydraulic fracking, a drilling method that has unlocked a domestic energy boom but that some fear could contaminate drinking water. Some contend increased natural gas production would contribute to climate change by accessing more fossil fuels — though some environmental groups dispute this assessment, claiming natural gas exports could lower emissions if it replaces coal in electricity generation.

"What this would do is accelerate the ability to export LNG to TPP member countries and down the road T-TIP, and they have huge demand for LNG in Japan. We're very concerned this will

accelerate the use of hydraulic fracturing," said Patrick Woodall, research director with Food and Water Watch.

Woodall also contended that investment provisions included in free-trade deals could give companies the right to sue if communities approve fracking moratoria or bans. That Investor-State Dispute Settlement, which has been used a handful of times under the North America Free Trade Agreement among the U.S., Canada and Mexico, allows companies to sue governments for actions that devalue their investments.

The intent of those provisions was to provide compensation to a company if, say, a host country nationalized an industry, factory or other resource in which a company were invested.

Lincecome said free-trade deal opponents make too much of the process, in which independent tribunals settle claims, adding that it has been used only a handful of times and that it's been "wildly, wildly fearmongered."

But environmental groups said they could point to several instances of it being used, including Lone Pine Resources' \$250 million claim against Canada regarding Quebec's freeze on fracking. They said the method could deter communities from pursuing restrictions, bans or moratoria.

"If you get sucked into some giant trade dispute with some foreign oil company you're going to have to pay your legal fees to defend your right to decide what happens in your jurisdiction, which is a huge attack on sovereignty," Woodall said.