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Free America's Energy Future: Drop Washington's Counterproductive Oil And Natural Gas Export Ban

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For years people have been told to expect a dismal energy future. But because of rapid free market innovation, Americans now can look forward to a future of energy abundance. The U.S. could even become a leading exporter—if Washington gets out of the way.

Successive presidents and Congresses imposed controls, approved subsidies, created bureaucracies, and issued proclamations. The most common commitment was to achieve "energy independence." But President Ronald Reagan set the stage for today's energy advances by unilaterally eliminating oil price controls and pushing Congress to drop natural gas price and use restrictions.

His successors, however, have regressed back to expensive social engineering. George W. Bush declared war on the common light bulb. Barack Obama poured billions into the coffers of well-connected alternative energy firms, several of which, such as Solyndra, have gone bankrupt. And everyone continued to support the authoritarian Gulf kleptocracies, led by Saudi Arabia, to ensure access to imported oil.

Yet an energy revolution is underway. Observed Mark P. Mills, an Adjunct Fellow at the Manhattan Institute, "The game-changing technologies that have emerged involve hydrocarbons: natural gas, oil, and coal." Major advances have been made in locating and extracting resources—such as horizontal drilling and hydraulic fracturing, or fracking—and operating in more distant and hostile environments.

Falling energy prices have benefited manufacturers as well as consumers. Moreover, exports of coal, liquid natural gas, natural gas liquids, and petroleum products have grown substantially, turning Americans into major traders.

Even more could be done if Washington stopped implementing policies which, complained Mills, had "evolved unintentionally to become complex, overreaching, and often capricious." The government should expand access to federal lands and waters and free producers to make best use of what they extract.

Despite Washington's persistent fixation on energy "independence," the marketplace is international. Supplies and prices are determined globally. Selective boycotts don't work because oil and natural gas can be resold at will. Americans should be allowed to sell as well as buy energy abroad.

Control of natural gas exports goes back to the Natural Gas Act of 1938 (as frequently amended). The Cold War created a justification for broad export controls, embodied in the 1949 Export Control Act. The 1970s were marked by various energy "shocks" and "crises," leading to passage of the Energy Policy and Conservation Act, which regulates oil as a "short supply" product. New legislation was later passed covering "dual use" technologies which have both civilian and military uses.

Thus, arbitrary restrictions bedevil energy exports. For instance, natural gas licenses are granted automatically for nations with free trade agreements—in this case Canada and Mexico—but otherwise the review process is lengthy and approval is rare. Last year Energy Secretary Ernest Moniz announced that he was delaying decisions on a score of applications as a favor to Senate Energy Committee Chairman Ron Wyden (D-Ore), even though the department had already concluded that such exports would benefit the U.S. economy. Many of the requests have been pending for years.

The ban on oil is even broader, with only small amounts being shipped to Canada. Few licenses have been issued under the law's "national interest" exception, and none since 2000. As of October 2012 a half dozen applications were pending.

Forbidding petroleum exports does not make additional oil available to Americans. Rather, the ban prevents energy companies from saving money. For instance, it would be cheaper to sell Alaskan crude to Asia and purchase more oil from Latin America. But Uncle Sam says no.

The restrictions also likely violate World Trade Organization rules, which bar "discretionary" and dilatory licensing systems. The usual WTO-sanctioned justifications don't apply. Washington routinely pushes other nations to join the organization, insists that other countries liberalize their markets, and criticizes governments such as China for their export controls—while resisting taking similar steps at home.

More seriously, the export ban risks slowing or halting the increase in domestic energy production. U.S. oil production is at a quarter century high; America could surpass Russia and Saudi Arabia as the globe's top oil producer by 2015. However, not all oil is created equal. In the U.S. the greatest supply increases have been of crude oil that is "lighter" and "sweeter" than usual. Most domestic refineries, especially in the Gulf Coast, are designed to handle "heavy" oil.

So the new product faces "transportation bottlenecks" in getting to the right refineries, said Maria van der Hoeven, executive director of the International Energy Agency. Worse, there are not enough capable refineries, and domestic capacity is expected to grow only marginally in the coming years.

In response, explained trade attorney and Cato Institute Adjunct Scholar Scott Lincicome, U.S. producers have "spent hundreds of millions of dollars building 'mini-refineries' in the Midwest and Gulf region to circumvent the current restrictions and export a slightly processed, cheaper product—leaving another $1.7 billion on potential profit on the table. As Rube-Goldbergian as this sounds, producers have few alternatives, given that U.S. oil consumption has collapsed in recent years and building new refinery capacity is virtually impossible in many 'environmentally friendly states'."

Creating a domestic glut depresses prices in America, costing domestic natural gas producers an estimated $3 billion and oil producers some $10 billion annually. Which means they have less incentive to spend more to produce more. As Lincicome put it: "current uncertainty retards highly capital-intensive domestic energy investment, production, and hiring."

The problem could worsen. A new report released by Alaska's Sen. Lisa Murkowski warned: "Many producers, however, fear that rising light crude production will soon exceed not only the nation's light refining capacity, but also the ability of refiners to adapt to the new production slate. When this point is reached, the U.S. oil resurgence will collide with the de facto ban on crude oil exports." Van der Hoeven similarly worried that the export ban "could threaten the economic viability of these new supplies, potentially stopping the boom in its tracks."

Unfortunately, supporters of the prohibition live in an alternate universe. Sen. Edward D. Markey (D-Mass.) argued: "This oil should be kept here in America, to benefit our consumers and to reduce our dependence on imports from the Middle East." A week later he asked: "Why would we want to export oil and raise American oil prices to match the world's oil price? Crude oil that is produced in the U.S. should be used to lower prices here at home, not sent to the other side of the world."

Similar sentiments were expressed by Foreign Relations Committee Chairman Sen. Robert Menendez (D-NJ): "why would we want to export oil and raise American oil prices to match the world's oil price?" Philip Rinaldi, CEO of the refiner Philadelphia Energy Solutions, said: "I would prefer to be adding value and selling to others, rather than behaving as if we were a colony to the rest of the world and selling them the raw materials so that they could add value and sell us back expensive products."

These arguments are stunningly misconceived. Exporting natural gas and oil does not increase America's dependence on foreign imports (which mostly come from nations outside the Middle East). Selling oil would merely reshuffle global supplies, giving American producers the most money for the best product. Sen. Markey might feel good at the faux feel of independence, but Americans are wasting money on extra transportation costs and failing to collect from higher-priced sales.

There is nothing wrong with exporting raw materials. Indeed, U.S. farmers have profited mightily from acting as "a colony to the rest of the world," marketing wheat, corn, and other foodstuffs. Let energy firms sell their products abroad—especially when American refiners don't have sufficient processing capacity.

Rinaldi's florid rhetoric reflects the fact that his company gains from artificially low oil prices. The Velro refining company was more frank, admitting in its latest quarterly report: "we benefit when we process oils that are priced at a discount to Brent [benchmark] crude oil." Today a few lucky U.S. refiners, who process lighter, sweeter crude, gain billions as an unfair and arbitrary subsidy courtesy Uncle Sam.

Exports also would be environmentally friendly. Instead of building more refineries to handle increased production, the U.S. would send more of its crude oil to other nations' facilities. In this way localities and states could avoid always contentious political struggles over construction of new refineries.

Finally, lifting the export prohibition would have little impact on consumer prices. The ban most directly benefits refiners, who are *exporting record amounts of products*, than American consumers. Studies suggest that eliminating the ban would result in at most only modest price increases.

In fact, argued van der Hoeven, "American end-users do not benefit from this production windfall since U.S. retail product prices are still heavily influenced by international markets." Energy remains a global marketplace. The best way to reduce consumer prices would be for Uncle Sam to reduce domestic barriers to production and allow international markets to function.

Reported the *Financial Times*: "Seth Kleinman, analyst at Citigroup, says Brent would weaken by $5 per barrel in the face of unfettered U.S. crude exports, taking as much as 24 cents per gallon off petrol prices. Energy economist Philip Verleger outlines a more dramatic scenario, arguing in a note this week that removing export controls could make five million barrels per day of light, sweet crude available to the world market: an increase of about 15-20 percent in the supply of that grade. Other things being equal, he says, light crude prices could be driven down some 30 percent, or about $30."

Anyway, trying to artificially hold down prices always has been bad energy policy. For years Washington imposed arbitrary energy controls. Below market prices encouraged consumption and discouraged production. That was a stupid policy then. It is an equally stupid policy now.

Last month Secretary Muniz indicated the administration's interest in relaxing the ban: "Those restrictions on exports were born, as was the Department of Energy and the Strategic Petroleum Reserve, on oil disruptions." Today, he added, the issue is one of many "that deserve some new analysis and examination in the context of what is now an energy world that is no longer like the 1970s."

Congress should eliminate energy export controls, or at least make licensing automatic. Second best would be to streamline the process, increasing transparency, consolidating licensing procedures, speeding decisions, and emphasizing the benefit of increased exports. The presumption should be in favor of granting licenses.

In any case, the administration should approve the applications before it and invite new proposals. Oil requires the greatest attention, and the administration has authority to allow greater sales when "for compelling economic or technological reasons that are beyond the control of the applicant, the crude oil cannot reasonably be marketed in the United States." These conditions are met today.

The energy boom is a great boon for Americans. However, absent a decision by Washington to open up more areas for development and allow more efficient use of what is produced, the boom could fade. Said van der Hoeven, "market realities suggest a far simpler decision ahead: either U.S. crude is shipped abroad or it stays in the ground."

The choice should be easy. Innovative markets have erased decades of rhetoric about shortages and scarcity. America's energy future will grow even brighter if only Uncle Sam stops getting in the way.