

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Honorable Jim Jordan
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler and Ranking Member Jordan:

The U.S. Chamber of Commerce opposes H.R. 2393, the “No Oil Producing and Exporting Cartels (NOPEC) Act,” which your committee is scheduled to consider in a markup on April 14. This bill 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.

However, H.R. 2393 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 H.R. 2393 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 in 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,



Neil L. Bradley

cc: Members of the House Committee on the Judiciary