

United States Senate

WASHINGTON, DC 20510

September 29, 2014

Ambassador Michael Froman
United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

Dear Ambassador Froman:

As another round of negotiations between the United States and European Union on the Transatlantic Trade and Investment Partnership (TTIP) commences today, we write to urge you to oppose the EU push to include language that would run counter to longstanding U.S. law and lead to automatic and unrestricted exports of U.S. natural gas and crude oil to the EU.

We are concerned by the EU proposal, leaked earlier this year, which calls for the inclusion of "a legally binding commitment in TTIP guaranteeing the export of [U.S.] crude oil and gas resources by transforming any mandatory and non-automatic export licensing procedure into a process by which licenses for exports to the EU are granted automatically and expeditiously."¹ An agreement that requires automatic and unrestricted approval of U.S. oil and gas exports to the EU has the potential to harm American consumers, our national security, and our environment.

The EU proposal to automatically approve exports of crude oil and natural gas conflicts with current U.S. law. Section 103 of the Energy Policy and Conservation Act (EPCA, P.L. 94-163) clearly prohibits the export of crude oil except in instances in which the President determines that exports are "consistent with the national interest and for the purposes of this chapter." Yet language in a TTIP agreement that requires the United States to "automatically and expeditiously" approve crude oil export licenses would preclude any review or consideration of those exports as they relate to the national interest, in contravention of the statutory requirements in EPCA.

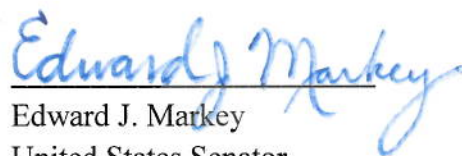
¹ Council of the European Union memo dated May, 27, 2014, available at: <http://www.scribd.com/doc/233022558/EU-Energy-Non-paper> Reported by the Washington Post, July 8, 2014, available at: <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/07/08/could-a-trade-deal-lift-the-u-s-longstanding-ban-on-crude-oil-exports-europe-thinks-so/>

The approval of any new crude oil exports would also not be consistent with the purposes of EPCA because it would increase America's reliance on foreign oil. When enacting the crude oil export ban as part of EPCA in 1975, it was clearly the intent of Congress to ensure that U.S. crude oil exports would not be permitted if they would increase U.S. reliance on foreign oil. The Conference Report accompanying EPCA makes this explicit, stating that "[t]he President must also be vigilant to assure that exemptions [to the ban on exporting U.S. crude] do not result in greater reliance on imports."² When Congress passed EPCA in 1975, the United States was importing slightly more than one-third of its oil. Today, even after the recent increases in oil production, improvements in vehicle fuel economy, and increased production of alternative fuels, the United States remains reliant on foreign oil to meet nearly one-third of our needs. In terms of crude oil alone, the United States is now importing nearly twice as much as we were when EPCA passed – 7.7 million barrels per day in 2013 as compared to 4.1 million barrels per day in 1975.

EPCA's directive to limit energy exports also applies to natural gas. While the Commerce Department has issued regulations governing crude oil export restrictions, there has never been a similar rulemaking restricting the export of natural gas, despite the clear statutory requirement to do so. Therefore, the EU proposal to automatically approve natural gas exports may also be inconsistent with U.S. law. Moreover, as large-scale exports of U.S. natural gas could significantly drive up prices for American consumers and businesses, squander our opportunity to reduce our reliance on foreign energy supplies, and harm the environment, it is critically important the United States retains its ability to consider the impacts of exporting natural gas on the public.

Decisions impacting U.S. law and energy policy must be transparent and made through the legislative process in Congress, not through trade agreements. We request that you clearly and unambiguously oppose any EU efforts to include a legally binding commitment in TTIP that would run contrary to existing U.S. laws by guaranteeing the export of U.S. crude oil and natural gas resources through changes to U.S. export licensing procedures. Thank you for your attention to this matter.

Sincerely,


Edward J. Markey
United States Senator


Barbara Boxer
United States Senator

² House Report 94-700, Senate Report 95-516. Conference Report accompanying the Energy Policy and Conservation Act. P. 126.